103

MOTOR CARRIER SAFETY

(103–79)

Y .P 96/11:103-79

Motor Carrier Safety, (103-79), 103...

HEARING

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION

OF THE

COMMITTEE ON

PUBLIC WORKS AND TRANSPORTATION

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

JUNE 14, 1994

Printed for the use of the
Committee on Public Works and Transportation

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MOTOR CARRIER SAFETY

TUESDAY, JUNE 14, 1994

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC.

The subcommittee met, pursuant to call, at 10:00 a.m., in room 2167, Rayburn House Office Building, Hon. Nick Joe Rahall II (chairman of the subcommittee) presiding.

Mr. RAHALL. The subcommittee will come to order, please.

The Subcommittee on Surface Transportation is meeting today to conduct an oversight hearing on motor carrier safety issues.

As part of this oversight hearing, we will receive testimony on several legislative proposals, including the Safe Highways and Infrastructure Preservation Act of 1994 introduced by our colleague Representative Jim Oberstar.

We will also receive testimony on the Commercial Motor Vehicle Safety Act of 1993, sponsored by another of our colleagues on the full committee, Representative Bill Lipinski.

In addition, we will hear about the Motor Carrier Safety Act of 1993 being advanced by Representatives Connie Morella and Leslie Byrne, a longstanding legislative concern of our colleague Representative Jim Traficant.

It has been my intention to hold an oversight hearing on motor carrier safety since assuming the Chair of this subcommittee last year. And indeed, we have had it listed as a hearing candidate for some time.

Aside from those issues which are the subject of the pending legislation, there are a number of matters involving the implementation of the commercial driver's license program, the anti-lock braking system rulemaking, and the alcohol and drug testing initiatives, which should be reviewed by this panel.

More recently, concerns over issues relating to truck size and weight were raised as part of our consideration of the National Highway System bill. This issue will consume a considerable amount of the hearing, but again, I do not want the subcommittee to lose sight of the other matters that are just as deserving of our attention.

With respect to the proposal being advanced by our colleague and the distinguished Chairman of our Aviation Subcommittee, Mr. Oberstar, the problem I have had with it is that the subcommittee simply does not know what its full ramifications are in terms of safety, in terms of its effect on reducing congestion and improving

air quality, its impact on the economy, and its impact on our transportation infrastructure and the advancement of intermodalism.

Today's hearing, hopefully, will shed some light on these concerns and I look forward to the testimony of all of our witnesses.

I want to, before recognizing our full committee Chairman, recognize the Ranking Minority Member, Mr. Petri.

Mr. PETRI. Thank you, Mr. Chairman.

First, I would like to apologize for not being able to attend all of this hearing today. Our Education and Labor Committee is marking up health care reform legislation that has been sent to the Congress by the President and so my presence is required at that meeting as well.

As you have noted we are holding this hearing to examine various motor carrier safety issues, with a particular focus on truck size and weights. One of the proposals before the subcommittee would freeze current State weight limits and impose a 53-foot length limit on all trucks traveling on National Highway System routes.

This issue was first raised by our committee colleague Jim Oberstar in the context of the National Highway System bill which was recently passed by the House. While I definitely respect Mr. Oberstar's sincere safety and infrastructure concerns, I, like you, was very concerned at that time about adopting a comprehensive policy change without first examining the consequences and implications of that new policy.

Federal regulation of truck size and weights on roads off interstates is virtually unprecedented. The 80,000-pound gross vehicle weight limit now applies only to interstate routes, and a Federal freeze of current State laws would bring an additional 100,000 miles of roads under Federal regulation for the first time.

While there is a minimum Federal length limit on the national truck network, we have never placed restrictions on the maximum length of trucks. Proponents of National Highway System truck restrictions cite safety and pavement damage as the reasons for supporting these controls.

The hearing today will give us an opportunity to examine these arguments. Are longer and heavier trucks more unsafe than other trucks?

If the size and length of trucks are restricted, will the number of trucks on the road increase and thereby compromise safety more than if fewer larger trucks were on the road?

In addition, it is my understanding that the critical factor in pavement damage is not gross vehicle weight but rather the per-axle weight. Will the gross vehicle weight limit truly preserve our National Highway System infrastructure?

Beyond safety and infrastructure concerns, I also believe it is important to fully consider the impact on economic development and whether we may be limiting ourselves from further innovations in trucking in the shipping industry by imposing such sweeping restrictions.

Beyond truck size and weights, we will also investigate several other safety issues concerning cargo securement, truck driver fatigue, the new drug and alcohol testing regulations, and the unique challenges faced by the independent owners and operators.

I would like to welcome our many colleagues, Federal Highway Administrator, Rodney Slater; Associate Administrator, George Reagle, and representatives of the various other interest groups who will be testifying today.

I know your appearance before the subcommittee will provide valuable information to us as we continue to try to improve motor carrier safety around our Nation.

Thank you very much, Mr. Chairman.

Mr. RAHALL. The Chair recognizes the distinguished Chairman of our full committee, the gentleman from California, Mr. Mineta.

The CHAIR. Thank you very much, Chairman Rahall. Let me first of all thank both you and Mr. Petri, as well as the other Members of the Surface Transportation Subcommittee for holding this very important hearing today. The motor carrier safety laws and regulations that govern transportation on our Nation's highways are paramount to the health and safety of our people.

I welcome our colleagues who will be testifying today regarding bills that they have introduced relating to motor carrier safety and the size and weight issue, which has once again reached a point of considerable concern and controversy. I look forward to hearing the testimony from administration officials regarding our safety laws and regulations as well as their comments on the need for additional changes regarding the size and weight issue.

In that regard, it is a pleasure to welcome Administrator Slater and Associate Administrator Reagle in today's hearing. Knowing how important safety is to not only those of us who write the laws and implement them but to those of you in the transportation industry, I look forward to listening to the testimony of each of today's witnesses who represent a broad range of the surface transportation industry and appreciate their appearance and their input into the legislative process.

We have gained from your knowledge in the past, and we trust that the information that you will give us today and through the course of these hearings will enable us to pass whatever might be necessary to protect public interest.

Mr. Rahall and Mr. Petri, thank you very much for holding these hearings.

Mr. RAHALL. Thank you, Chairman Mineta.

Do other Members of the subcommittee wish to make opening statements?

Mr. Quinn.

Mr. QUINN. Thank you, Mr. Chairman.

I would like to recognize you and Mr. Petri for allowing me to join the subcommittee today. While not a Member of this subcommittee, I am of course a member of the full committee. I appreciate the opportunity to be hearing testimony on issues that are important not only to the Nation but to my district in Buffalo, New York, and western New York State.

Last year, the Investigations and Oversight Subcommittee held a hearing at my request on truck cargo securement regulations, and enforcement. Specifically, in western New York, we had a serious problem in shifting cargo which involved some 20-ton steel coils. In one instance, these coils crushed three cars and killed four people.

This particular issue of cargo securement, like other issues today and our discussion this morning about truck size and weight, are important ones, and certainly ones that relate to public safety. It is important that we hold these hearings today and I appreciate the opportunity to join them.

I also want to welcome and to thank the Federal Highway Administrator Rodney Slater for his appearance today and also for his hard work on the issue that is of particular interest to me, the steel coils and cargo securement, as well as for his visit to Buffalo, New York, earlier this year.

Mr. Chairman, I want to thank you for moving ahead on this and other issues and I appreciate the opportunity to participate.

Thank you.

Mr. RAHALL. If no other Members of the subcommittee have opening statements, we will move on with our list of witnesses.

As mentioned in my opening statement, our first witness is a dear friend and colleague of ours. He is the distinguished Chairman of our Subcommittee on Aviation, and has been a leader in the effort to make motor carrier safety indeed safer for our Nation. He worked with us very closely in the development of the National Highway System legislation, and it was during drafting of that legislation and debate on that legislation that we discussed in earnest these hearings upon which we are embarking today.

Jim, we welcome your leadership and especially your personal appearance today.

TESTIMONY OF HON. JAMES L. OBERSTAR, A REPRESENTATIVE IN CONGRESS FROM MINNESOTA

Mr. OBERSTAR. I thank you very much, Mr. Chairman, for making these hearings possible and taking a very close, and I hope, careful, thorough, critical, analytical look at the motor carrier safety issues, particularly the one that I wish to address this morning, not only in and of itself but in the total context of our highway program.

Let me state for the record, make it clear, that I come here as an advocate for trucking. If you use it, eat it, wear it, sit on it, it probably came here by a truck.

I have long been a supporter of the trucking industry in this country, but of responsible trucking. And I don't want this legislation that I have introduced and that I proposed in the course of the National Highway System markup to be mischaracterized, as it has been, and some of the things that I have seen in correspondence and in other forms have caused me to stop and wonder if they are talking about the same bill I am talking about, and they certainly aren't.

The critics have very, very seriously misrepresented, to put it mildly, the legislation I introduced. It is good to have an opportunity to clear the air and make it evident what is proposed in my legislation. And I say that I came to the conclusion that this legislation is needed as we drew near to the eve of moving the National Highway System bill through our committee.

Earlier in the year, when it appeared that the other body, as we affectionately call our friends across the way, was not going to act upon highway legislation, I thought, well, this could wait. But then

you and Chairman Mineta, Mr. Shuster got the signal that the Senate might move if we did, so our bill started moving and I thought that would be the time to offer this language.

I deferred offering the amendment on your commitment to hold these hearings, and with the prospect of another vehicle by which to advance the cause of highway safety. I spent several years as Chairman of the Investigations and Oversight Subcommittee looking at highway safety, bridge safety, and the trucking industry. And much of my 30 years in this body, first as Administrative Assistant to my predecessor John Blatnik, administrator of this committee staff, and now as a Member, following that crucial link in our national economic structure, the Federal Aid Highway Program, and I have seen trucks grow every time we have expanded, improved, added to our national portfolio of highways and bridges.

Trucks over the years have gotten bigger and cars have gotten smaller. If there is anything I hear again and again from people about the highway system, apart from fix our road, expand our road, improve our bridge, it is, can you do anything about keeping trucks from getting bigger? If you don't think that is necessary, try driving cross country, as I did last summer, in a Ford Escort loaded with college stuff for my two daughters on the way to Milwaukee and Marquette University and across Wisconsin on to Minnesota and St. Thomas University, and being "whooshed" from one side of my lane to the other as trucks zipped by; and try to pass one of those double bottoms in a Ford Escort. You think you are never going to get there.

I just don't want them getting bigger. This legislation would establish a freeze on existing weight standards and truck lengths, and currently on the Interstate most States have 53 feet. There are some States that permit longer trucks, 10 that have 57 feet, and one that allows 60 feet. These truck-trailer rigs could continue to be used.

Second, the bill would restore authority to the Department of Transportation to review State claims of grandfathered rights to operate trucks heavier than the Federal standard. That language is known as the Symms amendment.

It came, Mr. Chairman, as you may well recall, out of nowhere. There were no hearings on it in the Senate, it was simply offered by Senator Symms and accepted in their Senate committee markup to what became the Surface Transportation Assistance Act of 1982.

We were confronted with it, and it just says, States: You look at your own regulations and decide whether you, in your program, have, in fact, grandfathered rights to operate trucks longer or heavier than the Federal standards.

But DOT ought to make that decision. These are Federal-assisted highways, they are operated in the name of all people. Funds from all over America come to build those highways, the public nationwide has an interest in them, they are not operated just for one or another State.

Third, would require the Department of Transportation to define what a "nondivisible load" is. I understand something about nondivisible loads.

You can't see this too well, but that is a 220-ton mining truck moving down the highway. It is going from Minnesota to the West

Coast, actually to Vancouver, Washington. It is so big it needs two flat-bed trucks to haul it. That is a nondivisible load.

That is fine. Those two trucks are specifically certificated, the load distribution has been carefully analyzed, they move at a particular speed, and they are carefully calibrated so that one truck is not lower than the other and doesn't bend the load. That is clearly a nondivisible load.

But there are lots of loads hauled in excess of 80,000 pounds that clearly are divisible and could move in more than one truck, not side by side, in sequence. Those are the kinds of loads that I think need to be very carefully defined.

I feel that at this point, at the very outset of our designating a post-interstate highway system, the National Highway System, is the time we need to think about the infrastructure on which these trucks are going to be pounding. One truck of that size does as much damage to road surface as 9,000 cars traveling over the same road surface.

Think about the effect on our bridges. There are 576,000 bridges in the United States, 176,000 of them, according to the hearings that our Investigations and Oversight Subcommittee conducted several years ago, were declared deficient, structurally deficient. They carried 85 percent of the bridge traffic of this country.

Those bridges need to be replaced. If you think you can run heavier than 80,000-pound loads over those bridges, you have got another think coming. Forty percent of the bridge decking of this country is approaching 40 years of age and older.

The reason? 1956 is when we authorized the Highway Trust Fund; that is when the big money started flowing to build major bridges. Those bridges now are in need of major redecking.

What we need is more than $2 billion a year to reconstruct those bridges. But why should we permit heavier trucks than are now operating on the highway system to operate in the future and accelerate the rate of deterioration of that bridge decking and of our highway system?

I said earlier that I have watched trucks grow and cars get smaller. In 1946, the length on trailers was 36 feet; in 1960, it went to 40 feet; to 45 feet in 1974; to 48 feet in 1984; to 53 feet in 1990.

To put this in a little perspective, in 1946 the average Buick was 18 feet long. Today, our Ford Escort is just about 15½ feet. That is a pretty small size to compare to one of those double or triple trailer behemoths roaring down the highway.

If you have ever followed one of those trucks as they are trying to make a turn, now it says "Caution, wide turns, stay back." They have signs on the back end. If you don't happen to be paying too close attention, you could get really caught. And I have seen trucks get stuck trying to make a turn. And I think that we have to consider the pounding that the highway system takes when you put vehicles of that size—I have a few others in here to show, big pieces of equipment, oftentimes double trucks going over.

Now, one or two of those is fine under conditions where they have enough axle weight and it is distributed properly, but if we continue to allow trucks to grow without some restraint, then I fear for the future. We are just going to be spending more and more

money and seeing more and more demands from the States and local governments for rebuilding of our roadway that is going to deteriorate seriously. In addition to which the safety problem will continue to grow.

I am just saying enough is enough. Don't allow the trucking sizes and weights to get bigger than they are. They are big enough.

I know the argument has been advanced that, well, if you don't let them get bigger, then we will have more trucks on the roadway. There are going to be more trucks anyway. There isn't enough capacity in this country in the railroad system to haul all the goods that we need to move. We are going to have more trucks.

I just don't want to have more trucks that are bigger. I don't want to see safety problems deteriorate. I don't want to see our surfaces deteriorate.

We have got billions of dollars invested in our highway system, $100 billion in the interstate alone. We have a $3 trillion portfolio of public works facilities in which rolling stock moves. We have the opportunity here now at this point in the post-interstate era to take an important step to protect it by passing this legislation. I urge the committee to move on it.

I will be glad to respond to any questions, Mr. Chairman.

[Mr. Oberstar's prepared statement follows:]

STATEMENT OF HON. JAMES L. OBERSTAR

HEARINGS ON MOTOR CARRIER SAFETY

SUBCOMMITTEE ON SURFACE TRANSPORTATION

June 14, 1994

Mr. Chairman, I sincerely commend you for holding these hearings on motor carrier safety, including my bill, H.R. 4496, the Safe Highways and Infrastructure Preservation Act of 1994. I believe that H.R. 4496 should be an integral part of the National Highway System Designation Act, which passed the House three weeks ago, and hope it will be able to catch up with that bill prior to enactment. I thus appreciate your very timely hearings, to give us a chance to explain the bill's provisions, and the necessity for its enactment.

First let me explain what the bill does and, more important, what it does not do, since it has already been the subject of some mischaracterization.

The bill is quite simple. On all roads designated part of the new NHS system, it would:

. Establish a freeze on existing weight standards and truck lengths. This would preserve current state weight standards including those which exceed the Federal limit, and permit those rigs of more than 53 feet in length now on the road to continue to operate; and

. Restore to DOT authority to review state claims of grandfathered rights to run trucks heavier than the federal

. Require DOT to define what a "non-divisible load" really is, and prevent the continued use of these special permits as a subterfuge for routinely running heavy trucks on the NHS.

These are important amendments to both the preservation of our investment in the NHS, and to highway safety. It is important that we enact them in conjunction with passage of the NHS bill.

Heavy trucks do enormous damage to our highways. According to a study by the American Association of State Highway and Transportation Officials (AASHTO) a single heavy truck -- even one that meets the federal Interstate standard of 80,000 pounds -- does as much damage as 9,600 cars. And, according to the Federal Highway Administration, a 90,000-pound truck causes approximately 2/3 more wear than one that weighs in at 80,000 pounds.

Truck crash rate studies consistently show that heavier trucks are more dangerous and cause more deaths than lighter ones. Extra-

heavy trucks take more time and distance to merge, and to stop, than lighter trucks. The heavier the truck, the greater its chances of rolling over in a crash. Fatal crash rates for heavier tractor-trailers are consistently higher than for lighter trucks in rear-end collisions.

AASHTO has called for a national semi-trailer limit of 48 feet in order to be compatible with existing highway design and safety needs. However, all but one state now allow 53-foot rigs, 11 allow 57-foot or longer, and one state allows trailers 60 feet long. The NHS will include county roads and city streets as well as the Interstate. DO WE REALLY WANT THESE RIGS ON OUR STREETS?

History teaches that trucks have gotten heavier and heavier over the years. In 1927, the truck weight limits were pegged at 40,000 pounds. That weight rose to 61,500 pounds in 1949; to 73,000 in 1974, and in 1974 the limit on the Interstate was raised to 80,000 pounds.

Truck/trailer lengths have also increased. In 1946 the limit was 46 feet; in 1960 it rose to 40 feet; to 45 feet in 1974; to 48 feet in 1984, to 53 feet in 1990. Many truck/trailer combinations are now 53 feet in length, and there are some at 60 feet. To help put this in perspective, the 1946 Buick was slightly under 18 feet. Today's Ford Escort is only about 15 feet long.

Overlength trucks cannot turn safely. When they turn, on city streets, either the back end swings out into on-coming traffic, or the cab has to climb the curb to make the turn. We've all seen signs on trucks, on city streets, saying "Caution, wide turns." These signs are serious. But the trucks aren't over 53 feet in length. Imagine a 60-foot or 77-foot trailer making a turn on a city street! Some single-trailer trucks reach this length now. And they could very well end up on city streets.

It is certainly in the interest of the Federal government, which is contributing 80% funding to the new National Highway System, to protect the investment of our taxpayers. And it is certainly in the national interest to protect the automobile drivers on this National Highway System.

As we stand at the threshold of a new era, as we launch the National Highway System, we must not allow those weight and length limits to continue their historic trend of increases.

It does not make sense to condemn the NHS to premature destruction before the first yard of concrete is poured. Nor does it make sense to deny motorists on this System the highest degree of safety.

I believe these changes must be made an integral part of the National Highway System program before we start pouring concrete, to keep faith with the American people who must foot the bills for the NHS and any future repairs; and who must share the NHS with big

and heavy trucks.

Mr. Chairman, thank you again for holding this hearing, and I look forward to working with you, and to making H.R. 4496 part of the law.

Mr. RAHALL. Thank you, Jim.

Do you mind waiting to let us hear from our two colleagues who are also here?

Mr. OBERSTAR. Certainly.

Mr. RAHALL. I understand Representative Traficant will not be appearing with us but instead has submitted his testimony for the record.

[Mr. Traficant's prepared statement follows:]

STATEMENT OF THE HONORABLE JAMES A. TRAFICANT, JR. BEFORE THE SUBCOMMITTEE ON SURFACE TRANSPORTATION

JUNE 14, 1994

Mr. Chairman, I want to thank you for allowing me to testify today on the issue of highway safety. As a member of the subcommittee, I am pleased that the panel is reviewing this important issue.

Since coming to the Congress in 1985, I have worked hard to ensure that the federal government is doing everything it can to promote and ensure that our highways are safe. In 1987 and again in 1991, I authored amendments – which are now law – that provide full federal funding for state and local highway safety construction projects. Prior to 1987, these types of projects were only eligible for 80 percent federal funding.

I pushed for the adoption of this measure because highway safety construction projects not only save lives – they save taxpayer dollars. Under my full funding amendment, which is now law under section 120(c) of Title 23 of the U.S. Code, projects such as the installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier end treatments, and breakaway utility poles are eligible for full federal funding.

I would urge the subcommittee to review other possible highway safety construction projects to ensure that all are eligible for full federal funding. You can't put a price tag on saving lives, but you can put a price tag on the enormous damage that occurs in highway accidents. Highway safety construction projects save lives, reduce insurance costs and limit property damage by reducing the number of highway accidents. Again, I would urge the subcommittee to ensure that all highway safety

construction projects be eligible for full federal funding.

This brings me to an issue I tried to address last month during consideration of the National Highway System designation bill. As you know Mr. Chairman, the House approved an amendment I authored to the NHS bill that directs the Secretary of Transportation to conduct a one year study of accidents related drivers of commercial vehicles who fall asleep at the wheel. The Secretary would have to make recommendations to the Congress on how to reduce the number of accidents related to this problem. I deeply appreciated your strong support for this amendment. I'd like to relate to the subcommittee why I felt compelled to offer this amendment.

According to the U. S. Department of Transportation, in 1992 there were 33,965 accidents involving truck drivers. Of these, 601 accidents were traced directly to truck drivers falling asleep at the wheel – resulting in 45 fatalities. However, in many accidents in which the driver is killed it is difficult to determine for sure whether or not the driver fell asleep. As a result, the real number of truck accidents related to drivers falling asleep at the wheel is more than likely much higher.

Mr. Chairman, there is a serious safety problem on our highways. My amendment attempts to address this problem by directing DOT to study the problem in-depth and recommend to Congress ways to address the problem and reduce the number of accidents related to truck drivers falling asleep at the wheel.

I would hope that whether or not the NHS is enacted into law this year, that the subcommittee closely examine the issue of drivers falling

asleep at the wheel and its impact on highway safety. I would hope that if my provision does become law and DOT conducts a study, that the subcommittee would act promptly on the study's recommendations.

In addition to full funding for highway safety construction projects and an examination of "falling-asleep-at-the-wheel" accidents, I would urge the subcommittee to examine the extent to which federal highway funding programs are encouraging and promoting new ways to enhance and improve highway safety.

Each and every day seems to bring new discoveries and the development of new technologies. Many of these technologies, such as road sensor technology, can go a long way in promoting Page Four highway safety. We now have the ability to determine not only air temperature but also the temperature of road surfaces. Technology exists to transmit this information instantly to local and state highway officials, as well as the riding public. Such information makes it easier for officials to accurately determine what remedial actions should be taken to improve road safety. By knowing what the road surface temperature is, officials can save value time and resources by getting roads salted at the exact time they need it. Conversely, officials will be able to determine when salting is unnecessary – saving wear and tear on the road surface as well as man and equipment hours.

To get the greatest "bang for the federal buck," the subcommittee should make sure that DOT is doing everything possible to encourage states to make use of new technology to promote highway safety – and give states the flexibility they need to fund such initiatives. I would recommend that a portion of federal highway funds be set aside for such

projects.

This concludes my testimony. I want to applaud you Chairman Rahall for holding this hearing and for the fine work you continue to do with the subcommittee. At this time, I'd be happy to answer any questions you might have.

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TESTIMONY OF HON. WILLIAM O. LIPINSKI, A REPRESENTATIVE IN CONGRESS FROM ILLINOIS

Mr. RAHALL. The witness next on our list is another dear colleague of ours and a Member of our Public Works and Transportation Committee and our Subcommittee on Surface Transportation, the gentleman from Illinois, our dear friend Bill Lipinski.

Bill.

Mr. LIPINSKI. Mr. Chairman, I appreciate the opportunity to appear before the subcommittee this morning.

I am very pleased that the Subcommittee on Surface Transportation is holding this hearing on motor carrier safety. I would like to commend Chairman Rahall and Chairman Mineta, as well as Ranking Members Shuster and Petri for recognizing the importance of this issue. I also wish to recognize the leadership of Jim Oberstar in bringing these safety truck issues to the attention of the committee.

Before I begin, I would like to take a moment to indicate my support for Chairman Oberstar's efforts to limit truck lengths and weights. His legislation is a logical preventive step to protect the National Highway System now, at its beginning. I would like to urge all my colleagues to support H.R. 4496.

Mr. Chairman, I am here to testify on H.R. 2967, legislation I have introduced to establish national standards for the transportation of commercial loads and to provide incentives for States to adopt covered load laws. Anyone who has driven next to an uncovered truck can testify to the perils of flying rocks and debris. Projectiles traveling at 60 miles per hour crack and shatter windshields, dent and scratch cars and present a dangerous distraction to drivers.

One scenario is that trucks leave behind a trail of debris on the road that other cars and trucks later kick up with their tires. These projectiles, whether they come from the road or directly from the uncovered loads themselves, cause numerous accidents, and, in some cases, have even cost lives.

Though State highway agencies do not track the number of accidents caused specifically by flying debris, the experiences of highway safety experts and many drivers testify to the dangers of uncovered loads. In my fall 1993 Constituent Newsletter, I asked my constituents to share their personal experiences with debris flying from uncovered loads. I received dozens of responses which I would like to include in the record at this point.

Thank you, Mr. Chairman.

The AAA Chicago Motor Club also asked readers of its magazine "Home and Away" to share their experiences with windshield or car body damage caused by falling debris from a truck. They received more than 100 responses. One AAA member reported two incidents involving debris flying off trucks, causing as much as $5,000 worth of damage to his car and injuries to his face and eyes.

Despite the lack of data on these incidents, we do have concrete evidence on the most common result—glass windshield breakage. According to statistics gathered from hundreds of insurance companies nationwide, the annual cost of replacing damaged windshields for their policyholders is hundreds of millions of dollars. Allstate

Insurance in Illinois estimates that fully 80 percent of the windshields it replaces are damaged by flying debris on roadways.

Most victims of these incidents must meet a deductible, and therefore pay $50, $100 or $200 or more of the $200 to $400 replacement cost of a windshield. This figure does not even include the time and inconvenience of filing an insurance claim in getting a windshield replaced.

In a very real way, we are all victims of these incidents. Insurance companies pass these costs back to consumers in the form of higher premiums for all drivers. Unfortunately, because of these trucks that are uncovered, we all have to pay.

Fortunately, there is a simple solution to this problem—covered load laws. Many States have already passed them. Of the 50 States, the District of Columbia, and Puerto Rico, 9 States passed laws requiring covers and 11 require covers under certain conditions.

I am submitting for the record a list of each State and its current law.

[The information follows:]

COVERED LOAD REGULATIONS BY STATE

ALABAMA	D	MICHIGAN	B
ALASKA	C	MINNESOTA	C
ARIZONA	C	MISSISSIPPI	A
ARKANSAS	D	MISSOURI	A
CALIFORNIA	B	MONTANA	C
COLORADO	D	NEBRASKA	A
CONNECTICUT	C	NEVADA	C
D.C.	B	NEW HAMPSHIRE	A
DELAWARE	D	NEW JERSEY	B
FLORIDA	A	NEW MEXICO	C
GEORGIA	C	NEW YORK	B
HAWAII	D	NORTH CAROLINA	A
IDAHO	D	NORTH DAKOTA	C
ILLINOIS	B	OHIO	B
INDIANA	C	OKLAHOMA	C
IOWA	D	OREGON	D
KANSAS	C	PENNSYLVANIA	C
KENTUCKY	B	RHODE ISLAND	C
LOUISIANA	C	SOUTH CAROLINA	C
MAINE	C	SOUTH DAKOTA	D
MARYLAND	B	TENNESSEE	B
MASSACHUSETTS	A	TEXAS	A

UTAH	C	BRITISH COLUMBIA	C
VERMONT	D	MANITOBA	C
VIRGINIA	D	NEW BRUNSWICK	B
WASHINGTON	B	NEWFOUNDLAND	A
WEST VIRGINIA	C	NOVA SCOTIA	C
WISCONSIN	D	ONTARIO	A
WYOMING	D	QUEBEC	A
PUERTO RICO	A	SASKATCHEWAN	D
ALBERTA	C	YUKON	D

KEY:

A	Laws which require covering
B	Laws which require covering in limited instances
C	Laws which restrict spillage and require the secure fastening of loads and covers
D	Laws which restrict spillage only

Source:
DUMP TRUCK LEGISLATIVE DIRECTORY
DUMP TRUCK & MOTOR VEHICLE COVERING LAWS
UNITED STATES AND CANADA -- 1993-1994
Published by:
TRUCK COVER AND TARP DIVISION
INDUSTRIAL FABRICS ASSOCIATION INTERNATIONAL

Mr. LIPINSKI. The Commercial Motor Vehicle Safety Act draws from the experience of these States and establishes a uniform national standard. As an incentive, the bill directs the Secretary of Transportation to transfer 1.5 percent of a State's annual highway construction funds to the State's highway safety programs if a covered load law is not enacted by fiscal year 1996.

The possible transfer of highway funds may not be good news for State legislatures, but drivers will appreciate the impact of covered load laws. The experience of Texas is a valuable example. Its law became effective on January 1, 1984, and had an immediate beneficial effect. According to a study by the American Automobile Association, the three years following enactment saw miles traveled on Texas roads increase 15 percent, while glass breakage claims increased only 1 percent. During those three years, the covered load law saved Texas drivers from thousands of glass breakages and millions of dollars in damages.

Mr. Chairman, the evidence I believe is overwhelming. Covered load laws work. They protect vehicles from damage. They protect the safety of drivers, they lower insurance costs. That is why AAA has endorsed my bill. I urge my colleagues to support this legislation.

Mr. Chairman, thank you very much for your attention. I am available to answer any questions.

Mr. RAHALL. Thank you, Bill.

TESTIMONY OF HON. CONSTANCE A. MORELLA, A REPRESENTATIVE IN CONGRESS FROM MARYLAND

Mr. RAHALL. The subcommittee will now hear from our distinguished colleague from the State of Maryland who can give some testimony, I am sure, that will shed light on the problem that we all encounter at one time or another living in this area, and that is truck traffic on the Beltway.

We recognize our dear colleague from the State of Maryland, Connie Morella.

Mrs. MORELLA. Thank you very much, Mr. Chairman and Members of the subcommittee. I appreciate the opportunity to appear before you once again.

We do have covered truck legislation in Maryland. It is one of those States.

Mr. LIPINSKI. I am very happy to hear that.

Mrs. MORELLA. Mr. Oberstar, who gave such a persuasive argument for his legislation, is also someone who experiences trucks on the Beltway, since he is my constituent in his home away from home.

I am here in support of H.R. 3665, the Motor Carrier Safety Act of 1993, which Congresswoman Byrne and I introduced in November. This legislation sets a minimum penalty and increases the maximum penalty amounts for civil violations of Federal motor carrier safety regulations. The bill would also improve information provided to motor carriers about past safety performance of drivers and improve supporting documentation records of duty status.

Now, in regard to those latter two provisions, I believe these are already being considered as part of a Hazardous Materials Transportation Reauthorization Act, and so, therefore, I am not going to

focus on them. And I commend you, Mr. Chairman, for taking the lead on those two important issues in motor carrier safety.

Yes, indeed, anybody who lives in the Washington metropolitan area knows the traffic problems on the Beltway. And on August 6th, there was a second "Beltway Summit" convened at the U.S. Department of Transportation to plan safety improvements for the Beltway.

As a matter of fact, I think you have got as one of the people testifying, one of the people who was very much involved with that Summit, Administrator Slater of the Federal Highway Administration.

On that same day on August 6th, there were three crashes involving motor carriers on the Beltway in Montgomery County, Maryland. In the space of 12 days last summer, seven people were killed in a series of Beltway accidents. Trucks were involved in four of these accidents. Indeed, Maryland's statistics show that a truck crash is four times more likely to result in death.

Nationwide, truck-involved crashes result in about 4,500 deaths per year, more than several hundred thousand injuries and hundreds of hours of lost productivity. This subcommittee has already enacted several excellent laws to improve truck and bus safety, and our Nation has made great strides in reducing motor carrier accidents, but indeed we have more to do.

My legislation sets a minimum penalty amount, and it raises all penalty amounts for civil violations of the Federal motor carrier safety regulations. Now, Congress has already set a minimum penalty amount for violations of rail safety and hazardous materials transportation regulations, so it is about time that we set a minimum amount for motor carriers who break the law.

Minimum penalty amounts will say to the motor carrier industry that violations of the Federal motor carrier safety regulations are significantly more serious than traffic violations, and setting a minimum penalty amount will stop the practice of negotiating down to meaningless levels of settlement and will put more teeth into the enforcement process. There are instances in which violations were settled for $250 or $300.

The final penalties imposed on motor carriers for violations is sometimes too small to result in effective compliance with the safety regulations. Penalties are often considered part of the cost of doing business.

Although my legislation raises all the penalty amounts established in the Motor Carrier Safety Act of 1984, the one about which I am most concerned is that connected with the serious pattern of safety violations. If a trucking company repeatedly allows its drivers to drive more than 10 hours a day or uses trucks that it knows are unsafe, it should pay an amount that is significant.

My legislation, therefore, raises the maximum for the serious pattern violation from $10,000 to $20,000. The Federal Highway Administration will confirm that the maximum penalty is rarely imposed, and that it needs to be effectively used.

A $10,000 cap was more meaningful in 1984 dollars when it was set. In today's money it has lost some of its punch. Today, a billion dollar corporation can allow all of its drivers to drive more than 10

hours a day and factor in the $10,000 fine as a part of a cost of doing business.

Other areas, such as environmental laws, occupational and safety regulations and antitrust law allow much higher penalties for violations. People are dying on our highways, and we continue to assess motor carriers extremely modest penalties for a pattern of these serious violations of motor carrier safety regulations.

Now, small businesses, of course, are still protected by the existing statute which requires the Federal Highway Administration to consider the ability to pay and the ability to continue to do business after paying when deciding a final penalty amount.

The U.S. Department of Transportation continues to find an enormous number of motor carrier safety violations. The Office of Motor Carriers has a budget of $50 million. We must equip its investigators with more vigorous enforcement tools. We must take meaningful actions against violators if we are going to make substantial improvements beyond our current achievement.

And so finally, Mr. Chairman and Members of the subcommittee, I appreciate your consideration of my prior request for funding authorization for the IVHS project on the Capital Beltway, which was the last time I was here to testify. Thank you for your courtesy in listening again to my concern about motor carrier safety issues.

And on behalf of the thousands of my constituents and your constituents and our Members of Congress who drive the Washington Beltway daily, thank you for your continuing efforts to resolve the unsafe conditions on highways such as the Beltway. I really think that making it cost more to violate safety regulations will promote even greater voluntary compliance and be a better deterrent to motor carriers operating in an unsafe manner, and again I thank you.

I would be happy to answer any questions when the time comes.

Mr. RAHALL. Thank you, Connie.

Mr. OBERSTAR. Mr. Chairman, I would like to add a footnote to Mr. Lipinski's testimony, and I appreciate that very fine and thoughtful presentation of Mrs. Morella as well. But you don't have to go very far to worry about uncovered loads. As I was driving in one morning four years ago along the Southeast Freeway, an uncovered truck some distance ahead of me had a 2-inch diameter, 8-foot length of pipe blow off the load, hit the highway. I said to myself, that pipe is dangerous, someone is going to hit that thing and get hurt. A second truck's rear wheels hit the length of pipe, it flew up into the air and landed smack on the rear window of my car and blew the entire rear window glass out, hit me in the back of the neck, shattered all through the car.

Cover those loads!

Mr. LIPINSKI. Thank you.

Mr. RAHALL. Jim, for the Chairman of the Aviation Subcommittee, I think you have had more experiences on our Nation's highways.

Mr. OBERSTAR. Take planes, they are safer.

Mr. RAHALL. Let me begin by asking you a question. I am glad, Jim, that in your testimony you do clarify a lot of mischaracterizations of your bill, because I have heard many of the same mischaracterizations.

As I understand it, your legislation would not roll back any truck sizes or weights?

Mr. OBERSTAR. Correct. Keep what we have, don't let them get bigger.

Mr. RAHALL. And you would transfer the current weight limits on our interstate system over to the National Highway System?

Mr. OBERSTAR. National Highway System, yes, that is correct.

Mr. RAHALL. But at the same time, if States currently allow larger weights, you would allow those States to continue to allow those?

Mr. OBERSTAR. That has been a long-established practice of this committee, grandfather what is in place, don't create more fights and more problems than we need, but don't let those get any bigger either.

Mr. RAHALL. You represent an area very similar to mine; you have a lot of iron produced in your district, as I recall, and I have a lot of coal produced in my district. Both of those industries require a lot of heavy trucks.

My question is, have you received any reaction from any of the iron producers in your district?

Mr. OBERSTAR. No iron ore moves over the road, Mr. Chairman, it is all off road, it is in the mines, and after processing, it goes on railroad cars which a mile and a half, two-mile long train hauls to Lake Superior to be shipped on ore boats. We have grain trucks, we have thousands of grain trucks coming into Duluth, as many as 90,000 to 100,000 grain trucks in a good year coming from western Minnesota and North Dakota, hauling principally wheat, though some corn and soybeans—and those are covered trucks, Mr. Lipinski, and they darn well better be. But even so, there is an awful lot of grain that flies out of those trucks on the highway, there are some good wheat stands along the roadway.

Mr. RAHALL. I wish we had the luxury in our area of the country to able to move the coal without having to rely on the roads as much as we do; perhaps you are getting better rail rates than we are in the Appalachian coal fields.

Bill, let me ask you a question. Your legislation has been adopted by a number of State legislatures, is that correct?

Mr. LIPINSKI. That is correct.

Mr. RAHALL. Why do you think more State legislatures have not acted on it?

Mr. LIPINSKI. It hasn't been in Illinois, and it has been advocated by a number of Members of the Senate and House in Illinois, but it hasn't been, because there is a very strong lobby in opposition to it. There are people in the trucking industry who are very much opposed to it, and I don't honestly understand why they are that strongly opposed to it, because it certainly can't be that expensive. It can't be that time consuming, but there has been a lobby in Illinois, and I assume in other States around this country, who at the State legislative level have opposed this legislation.

Mr. RAHALL. Okay. I guess politics plays there, too?

Mr. LIPINSKI. It plays very well in Springfield, Illinois, yes.

Mr. RAHALL. Connie, I appreciate your testimony very much. Quite frankly, I did not know there were no minimum floors for these penalties, and your testimony of how they negotiate them

down to such small amounts I think is rather alarming, and I appreciate very much the information you have given us.

Thank you for being with us.

Mrs. MORELLA. Thank you.

Mr. RAHALL. The Chair now recognizes the Acting Minority Member, the gentleman from Georgia, Mr. Collins.

Mr. COLLINS. Mr. Chairman, being in the trucking business, I might ought to take the Fifth Amendment on this one. Some of these things I can agree with and there are some that I cannot, but that is not my purpose of being here.

Mr. Oberstar, I sure wish you would have taken the bus or hired U-Haul or rented Hertz or someone, it might have been a whole lot better off on a lot of folks. But you mentioned you wanted to transfer the interstate regulation weights to the off-interstate systems that are under the National Highway System?

Mr. OBERSTAR. That is correct.

Mr. COLLINS. But yet you are not going to reduce or change any weights that exist today, everything would be grandfathered in?

Mr. OBERSTAR. That is correct.

Mr. COLLINS. But if you transfer the weights from the interstate system to the National Highway System that today allows maybe a different structure for weights, then, in fact, you would be reducing?

Mr. OBERSTAR. There are 11 States that are longer and allow trucks longer and some heavier; ten, 57 feet and one State that allows 60 feet, and under my bill that would stay in place.

Mr. COLLINS. But if you try to use the same weight standards and length standards on the interstate then to off interstate, then in effect, though, you would change those laws that are there today?

Mr. OBERSTAR. Not where they are in conformance with Federal law or where we grandfather them in. It is spelled out on page 8 of my bill.

Mr. COLLINS. Maybe I misunderstood you, though. You said that you have the interstate system where you have 80,000 pounds, 34,000 pounds per tandem, 20,000-pound axle weight, but you are going to take those weights and move them to the National Highway System off interstate roads. And I use Georgia as an example where we have the 80,000 gross but we have 37,420 pounds tandem with the 20,000 pound axle, then in effect you would be changing that from 37,420 back to 34 on the National Highway System which are off-interstate.

Mr. OBERSTAR. Where the State currently allows heavier trucks on non-interstate highways on the NHS, they could continue to do so under my bill. Does Georgia allow 57-foot lenghts?

Mr. COLLINS. I think we do have a 58-foot on the auto carriers or something like that. I don't remember. I don't haul anything but timber and I know that it is 60 feet total.

Mr. OBERSTAR. I don't know whether Georgia is one of the 11 States that is an exception, but grandfather in——

Mr. COLLINS. There are lots of things with weights and lengths that I don't see. In fact, when the axle weight law was changed in Georgia the total gross from 73,800 pounds to 80,000 several years ago I didn't support it, I liked the lower weight. It was for the safe-

ty standpoint, too, and not only safety but the cost and upkeep of equipment because oftentimes they both get abused.

Mr. OBERSTAR. In any event, whatever the rule is in Georgia now, if it is allowed now under current law, it would be covered under my legislation.

Mr. COLLINS. Okay.

Mrs. Morella, you have three years in your safety records that you want to go back and record the safety conduct of a driver, record accidents, record abuse of alcohol or substance abuse, put it in the record; is that not true?

Mrs. MORELLA. I believe that is true.

Mr. COLLINS. Why did you limit that to three years? You know, as an owner of a trucking company, anyone who has a record of DUIs or substance abuse, the transit company wants you to stay away from them for a number of years more than three years.

Mrs. MORELLA. We just feel that we wanted to be practical in terms of something that would be workable, and we felt that might be an adequate period of time for the correction to take place, to give them another chance.

Would you suggest it be greater?

Mr. COLLINS. I was just asking the question. I make no suggestions.

Mrs. MORELLA. Even with raising the penalties, as I mentioned in my testimony, there are penalties that are far greater with EPA and some of the environmental organizations, but we wanted it to be large enough to demonstrate we really mean business and yet to allow business to continue to be conducted. The penalties haven't been raised since 1984, so we want to show that we mean business and do it in a practical manner.

Mr. COLLINS. Well, in reference to the minimum fines for driver error, are you considering holding the company accountable for the driver error in all cases?

Mrs. MORELLA. Well, what we have done is raising the penalty so that the company recognizes that it has a responsibility for its drivers. And we had a case study, for instance, with a company that had 150 drivers, a large company, and it allows these drivers to drive more than 10 hours a day, which is the legal limit. And for one driver violating this rule, there is a $1,000 penalty, but if all 150 drivers are allowed, the cap is $10,000, so for a billion dollar company, $10,000 is a small amount for doing business. So we are trying to revert some liability on the companies for their employees, for their drivers.

Mr. COLLINS. What about in other violations?

Mrs. MORELLA. What kind of violations?

Mr. COLLINS. Do you have any violations other than the log book?

Mrs. MORELLA. I would think a company should assume responsibility for other violations of their drivers while they are working professionally for them.

I don't know what specifically you mean. I am thinking more of on the road, those safety provisions that I think we all recognize.

Mr. COLLINS. You mentioned the Beltway, the trucks on the Beltway; what specifically should the company be accountable for on the violation of a driver on the Beltway?

Mrs. MORELLA. The Beltway is hazardous to begin with in some areas. There are a number of accidents with large motor carriers. We need to do something to crack down on enforcement.

We have also seen a record which has indicated that there have been violations, we have not followed through with them. If the penalty has been paid, it has been such a small amount, they have just paid it and have gone on. We have no assurance that they have changed what the problem has been. So I think with more and more cars being driven, and as Mr. Oberstar has said, even getting smaller in many instances, more and more trucks on the road, on the Beltway, that I think it is critically important that we enforce what we have, and I think to enforce it we have to crack down on the companies. And one of the ways of doing it is by virtue of raising the fines and showing that we want to see the improvement or else.

Mr. COLLINS. Well, I can appreciate that, and, two, having been in the trucking industry for a long time myself, I do know that safety is foremost on the mind of a trucking company owner because his cost of operation stems around his safety record. And there are very few out there, the company owners, who would have a different view. But there are things that you can do that still will cause a lot of grief to those who do have goodwill and good intent and who do look after their operation, but yet may have a driver or an employee who is not quite as conscionable as what needs to be done and should be done and follow the regulations as they should, and of course you wind up penalizing the company itself instead of penalizing the violator. So it is a fine line you draw there, and how do you determine that line?

Mrs. MORELLA. I think the company does. I think the company will penalize the driver and make sure that the rules are enforced. And I have talked to—and you will hear later on today from people in the trucking industry who have no problem with this bill. I mean, maybe they don't feel that they need it, but they have no problem with it in terms of increasing the penalties because they want a safe driving record, you are right.

They want to preserve their reputation. They don't like the fact that there are some companies that really just don't enforce regulations when they have got some drivers that should not be driving or when inspections are not—when they don't follow through with improving it, and that is why, although the penalty is increased and hasn't been for 10 years, that is why it is still a practical one which simply says, let's move on in a very safe fashion.

Mr. COLLINS. Well, I admire you for your courage of going out and trying to establish safety requirements that will benefit the public.

Mrs. MORELLA. I really think they will.

If you have any other specific concerns, talk to me about it because I value your background in it. But we really tried to work it out so that it is something that moves us ahead in a safe fashion with problems that we have just seen abounding.

Thank you.

Mr. COLLINS. Thank you.

Mr. Lipinski, there was one question for Mr. Lipinski.

You list several commodities there that you wish to see covered in all States, and then you ended up by other similar items or—are those other similar items to be—at whose discretion will they be?

Mr. LIPINSKI. Whose discretion? We are going to cover commercial loads. We won't be covering pickup trucks.

Mr. COLLINS. In other words, your bill would cover all commercial loads, then there would be no discretion?

Mr. LIPINSKI. That is correct.

Mr. COLLINS. What purpose did you list all those different items and commodities for?

Mr. LIPINSKI. I don't remember listing all different—oh, listed in the bill?

Oh, I thought you were talking about my oral testimony.

We mentioned all the individual loads because those are the loads that people get the most complaints about and States believe cause most of the trouble with the flying debris. In drafting this bill, we listed those items most often coming from uncovered loads and causing damage. But it is my intention with the legislation not only to cover those commodities but all commercial loads. That's just the language which has been successful in other legislation of this kind.

Mr. COLLINS. Thank you, sir.

Mr. RAHALL. The Chair recognizes Chairman Mineta.

The CHAIR. Thank you very much, Mr. Rahall.

Let me thank our colleagues for testifying.

I would like to inquire of Mr. Oberstar, if I might.

In the NHS bill that we just passed, there was a provision there relating to "nondivisible loads," and you referred to that in your statement. In terms of the studied provision we put in on nondivisible loads, do you think that it will result in a narrower term being defined, or what do you think would be the outcome of that?

Mr. OBERSTAR. The language in the committee bill is permissive authority for the Secretary to extend non-durable load regulations to the National Highway system. The language reads, "The Secretary may apply these regulations to all vehicle loads operating on the National Highway System, if the Secretary determines that it is in the public interest." My bill is requirement, "shall establish." And I would hope that upon enactment of the NHS bill that the Department will move forthwith to exercise that permissive authority, but I have found over the years that unless directed, the Department moves with glacial speed.

The CHAIR. Let me ask also about in terms of the economic life of these flat-bed trailers exceed 53 feet, and I am wondering, would your bill allow continued use of these flat-beds after the life of the current trucks expire? In other words, can the owners replace those trucks when they reach their maximum economic life?

Mr. OBERSTAR. Initially, all the vehicles that are covered by State law are grandfathered in, but if State statute sets—if State statute does not permit those longer truck lengths, then they will be terminated.

The CHAIR. Okay. Thank you very much.

I want to thank our colleagues for being with us.

Thank you.

Mr. RAHALL. One clarifying point, if the Chair might; I understood you to say that in the NHS bill, Jim, we allowed some permissible language as far as the definition of "divisible load," that is that we said the Secretary "shall define" or "may define"?

Mr. OBERSTAR. May.

Mr. RAHALL. It is my understanding we were a little more definite than that in that we directed the Secretary to definitely define the term.

Mr. OBERSTAR. With respect to the National Highway System, I think I have it somewhere in my pile of stuff here, but the language—right here. "The Secretary may apply these regulations to all vehicle loads operating on the National Highway System." My bill said "shall apply." I accepted in the spirit of moving the bill forward that language. I would like to make it tougher.

Mr. RAHALL. We directed them to do the rulemaking and then upon the results of that "the Secretary may define?"

Mr. OBERSTAR. Yes, direct a rulemaking and then——

Mr. RAHALL. So we directed in the first instance, and in the second instance, there was that permissibility that you are concerned about?

Mr. OBERSTAR. If we could have an amendment that would graft a backbone into the Department to then apply it, I would be happy with that, Mr. Chairman. But I have found that that is kind of hard to go that next step over the years of my experience here.

Mr. RAHALL. Thank you, Jim.

The Chair will recognize other subcommittee Members; the gentlelady from Virginia has been here for some time, and she is a cosponsor with the gentlelady from Maryland. We are glad to recognize you for questions, Leslie.

Ms. BYRNE. Thank you, Mr. Chairman.

I would request that my opening statement be put in the record.

[Ms. Byrne's prepared statement follows:]

STATEMENT BY REP. LESLIE BYRNE
SUBCOMMITTEE ON SURFACE TRANSPORTATION
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

June 14, 1994

I want to thank the distinguished Chairman of this Subcommittee for holding these hearings, and I welcome our panel and thank them in advance for their testimony.

There is no question that this is a timely issue, and one at the forefront of the transportation agenda. Today, you cannot discuss transportation issues without addressing motor carrier safety.

Last week, I hosted a Northern Virginia Regional Transportation Summit with Secretary Pena and the Commonwealth of Virginia's Transportation Secretary Bob Martinez. The issue of safety was of concern for many in attendance, from 11th district commuters to representatives of trucking associations to county supervisors. At this summit, I was struck by the depth of concern for this issue, but also by the level of commitment in fixing the problem.

This is also evident in the work of people like Rodney Slater of the Federal Highway Administration who has constantly highlighted the urgency of motor carrier safety since coming to Washington. This broad band of interest at the federal, state and local levels for improving motor carrier safety speaks volumes about the need for an immediate and collaborative effort to address this situation.

While I am encouraged by the commitment I am hearing from all levels, it is critical that we focus our attention on common sense approaches, that we will work towards during this hearing.

Motor carrier safety has been a major concern for Northern Virginia, in particular, which is criss-crossed by some of the most highly travelled highways in the country, like the Capitol Beltway and I-95.

Concern over the safety of these roads crosses both party and regional lines, and I have worked closely with Congresswoman Morella by introducing H.R. 3665, the Motor Carrier Safety Act last November. By strengthening the penalties for egregious motor carrier safety violations, I am confident we can prevent many of the circumstances that lead to fatal accidents. I look forward to hearing Mrs. Morella's testimony later in this hearing.

Finding solutions to motor carrier safety concerns makes sense for a host of reasons. Not only will it help protect our the millions of people who use our nation's highways, but it will keep our economic engine running by making our roads easily traversable.

We are spending a lot of time these days discussing how we can improve our health care system. As Congress concentrates on expanding America's access to health care, considerable attention has focused on cost-effective preventative care. A recent government study estimates that serious car accidents cost our society hundreds of millions of dollars in health care and lost economic productivity. Increased safety on our highways is a health care issue.

As we move forward on this critical issue, I hope that all parties involved will work together to find safety policies that are smart, cost-effective, and most importantly, policies that maximize safety.

Mr. RAHALL. Without objection, so ordered.

Ms. BYRNE. First, with Mr. Lipinski, I will tell you that no matter how long I live, I will be known as the "Covered Truck Woman of Virginia," because after 25 years of people trying to get the loads covered on trucks, I was able to do it. And to address your question about the political impediments to doing that, once it got on the Floor, it passed very quickly, but for 25 years it was bottled up in committee.

My State of Virginia, the Commonwealth of Virginia, 98 percent of the people polled said that this was an issue and they wanted it done. And I would assume from your information that that figure would probably hold true throughout the United States.

Mr. LIPINSKI. I would agree with that very definitely.

Ms. BYRNE. Thank you.

And for Mrs. Morella, it is my absolute pleasure to be working with you on your bill. We had talked about the indications for current enforcement programs. Could you explain a little bit more about why we need to strengthen these enforcement programs and why did you talk about the penalties being increased rather than more strict standards? Could you expand on that a little bit?

Mrs. MORELLA. Thanks for the opportunity to do that.

First of all, it is a pleasure to work with you on this legislation. It indicates that it is regional and it indicates it is bipartisan, and it is a great subcommittee for it to come before.

Well, first of all, in responding also to what Mr. Collins said. As I was sitting here, I was thinking that when our staffs do something, we are the ones that the buck stops with us. We are the ones responsible. And it would be the same thing with the motor carrier which would enhance what we have said about the fact that they want to keep their reputation up, and that one person, two people can really tarnish it.

But, you know, under NHTSA, one-third of the vehicles that are inspected are taken out of service for what they call "eminently hazardous conditions" this includes 6 percent of the drivers and 28 percent of the vehicles. That says something needs to be done.

Also, the number of companies rated unsatisfactory or conditional by the Federal Highway Administration is 40 to 50 percent. That is a startling percentage. This really means that they don't have in place a minimum safety management plan that would allow them to get a satisfactory rating. Indeed, there are real critical problems there, and I think raising the penalties which haven't been raised since 1984, would give a strong message that we want safer conditions on the highways.

It is doable, I think the motor carrier companies will find this will be the incentive that they have needed all along, and I think indeed, as I have mentioned, there are just so many reasons why we need to do more. So thank you.

Mr. RAHALL. The gentlelady from Texas, Eddie Bernice Johnson.

Ms. JOHNSON. Thank you, Mr. Chairman. I don't have any questions.

Mr. RAHALL. The gentleman from Illinois, Mr. Poshard.

Mr. POSHARD. Thank you, Mr. Chairman. I appreciate the opportunity to be here. There is much in Congressman Oberstar's bill I

agree with, with respect to the limits on weights and so on. I wanted to ask Mr. Lipinski about his bill for a moment.

My agriculture and coal-mining district depends upon the trucking industry. That is the lifeblood of our location, hauling grain and hauling coal. I was wondering if there are any provisions in your bill for short haul types of activities in the trucking industry?

Let me tell you why I am asking that, Bill. To give you an example I have a gentleman that runs 32 trucks in my district. He hauls grain and coal and only about three of those trucks are over the road. They are running right now, North Carolina back to Illinois, and carrying some different things other than coal and grain. But the great majority of his trucks, 28, 29 of them are run between the elevator or the coal mine 20 to 30 miles to the river to the barges and sometimes to the train-loading facilities and so on.

He estimates that, with the covering provisions in your bill, and I have grown up around this industry, it takes about 25 minutes per load to deal with tarps, which is what generally they use in covering. About 15 minutes to put it on and about 10 minutes to mess with it at the elevator or loading facilities to take it off. His average driver hauls about six loads a day, so they would be putting in two-and-a-half hours a day, under your bill, dealing with the tarp.

His people make an average of about $12.50 an hour, so he is right at $30 per driver per day, nearly $1,000 per day for a short-haul trucking facility. Can we find the middle ground there?

He doesn't travel mostly on National Highway System roads. Generally, it is State roads, county roads, that sort of thing.

Mr. LIPINSKI. Why don't you have them buy the road, keep all the other traffic off the road. Then he wouldn't have to worry about it.

Mr. POSHARD. There is an economic consideration here and that is why there has always been opposition to this sort of bill in Illinois. I agree with you that we need to find a way to resolve things flying out of trucks, whatever it is, but this is a huge—expense when a small trucking firm is paying $1,000 a day to deal with a single safety issue—and that is 30 jobs where I live, which are precious in counties of 20 to 25 percent unemployment—how do you talk to those guys?

How do you say this is an important safety law that you ought to pay for?

Mr. LIPINSKI. Well, I can understand that it is a financial burden upon this company that you are referring to. If, indeed, it is going to take them that long to cover the load, that long to uncover the load, it is going to add that much more to their day.

And I would be more than happy to sit down and try to work out some solution with you, if you will be good enough to go down there and personally check out in your district how long it takes the load to be covered and uncovered and how much time it adds to that teamster's working day for this company. Because you are a man of great integrity, and if you come back and you tell me what you just recited to me this morning as absolutely accurate, I am sure we can reach a compromise for you.

Mr. POSHARD. I appreciate that.

Mr. OBERSTAR. Mr. Chairman, Mr. Poshard, may I answer that?

You raise an important point about time, but the other side of the argument, the other side of that coin is it cost me over six hours of time to take my car to have an estimate, have the repair work done, and to vacuum the pieces of glass out of the car, and to go to see a doctor about the shrapnel that I took in the back of the head, and my insurance company paid $200 or $300 for the repair work, and we never caught up with the driver, never got a license plate.

Mr. POSHARD. I realize that, Mr. Chairman. I had a similar incident. I was traveling in my district a few months ago and was behind a concrete truck. A piece of dried concrete flew up and came right through the top of our car, a dent that big, so I understand exactly what you are saying. I just—there are areas where economic considerations are important here.

Mr. LIPINSKI. You have been inviting me to southern Illinois for the last four years. I haven't made it yet, so I will be happy to accompany you.

Mr. POSHARD. I think you can—Nick also has the coal industry in his district and they can tell you how long it takes for a single truck driver to have to wait at the elevator or the coal mine and put a tarp over his truck. It is a time-consuming thing. It is not an easy thing to do. And you know, if you are limited to 10 hours a day working, and so on, and you are taking up three hours of that doing one simple safety operation, it really does affect the ability of a marginal business to operate.

All I am saying is that there is a very honest consideration on both sides, safety and economics here that need to be ironed out. I agree with you.

Mr. LIPINSKI. But you can't put a price on safety.

Mr. POSHARD. Well, you have to put some price on safety. I don't know what it is.

Thanks.

Thank you, Mr. Chairman.

Mr. RAHALL. Glenn, I might say, in our area we cover our trucks; Administrator Slater knows that—we had him down there a couple of weeks ago, and our trucks were all covered—that is our law. Perhaps it is because our coal is a little lower in sulfur and perhaps a little more valuable.

Mr. LIPINSKI. I am very happy to have the Chairman tell me about West Virginia. I am sure if West Virginia can cover their truck loads, we in Illinois can do the same thing.

We wouldn't want West Virginia to be ahead of us, would we, Glenn?

Mr. POSHARD. Well, on some things we don't mind West Virginia being ahead.

Mr. RAHALL. The gentleman from Texas, Mr. Laughlin, is recognized.

Mr. LAUGHLIN. Thank you, Mr. Chairman.

Chairman Oberstar, you are familiar with the fact that in my State we hunted horse thieves at one time in our history, because that was our only mode of transportation.

Mr. OBERSTAR. I remember very well. You told that story many times with great effectiveness.

Mr. LAUGHLIN. I want to be sure your bill doesn't take away the effectiveness of us relying upon the trucks that we need, because again you are familiar; in my district we don't have subways, we don't have ferries and we don't have rapid transit, we don't have a lot of amenities that you have and many in this Congress have in their districts.

But getting to the safety point, you make some very valid points. I would say to my good friend and classmate from Illinois, that at one time in the history of my State, we did not cover our trucks.

I was in the business of defending those trucking companies in all sorts of accidents, and you could not find a friendly juror who had ever driven on the roads of Texas because of the sloppiness of putting loads on the trucks that fell off and not only maimed and injured but often killed people, and there certainly were few drivers that had not had the inconvenience that Chairman Oberstar referred to. So there is a good line that needs to be crossed by this committee in looking at safety.

And, Glenn, I would tell you as one that has been in your shoes and Mr. Oberstar's shoes, having car damage, that is one inconvenience, but I think the companies will recognize if they go look at some liability statistics, that in a State where you have unfriendly jurors who have had their cars, their personal time imposed upon and then they all have someone they know that has been injured because of the sloppy methods of loading—and, Glenn, I will tell you some of the largest gravel pits in the State of Texas are in my district, and they even had small pebbles of gravel fall off on the interstate, so it was just an impossible task of trying to represent these companies in greater money damages than $1,000 a day.

You are talking about millions in a lawsuit caused by death. So I think this is an important area. And certainly Congresswoman Morella's bill is well thought out, and I am hopeful to be supportive of both bills.

Thank you, Mr. Chairman.

Mr. RAHALL. Does the gentleman from California, Mr. McKeon, have questions?

Mr. MCKEON. No.

Mr. OBERSTAR. Just put all the horse thieves in 53-foot trucks, and we will all be happy.

Mr. RAHALL. Our colleagues, we thank you for being with us this morning.

Mr. LIPINSKI. Thank you very much, Mr. Chairman.

Mrs. MORELLA. Thank you, Mr. Chairman.

Mr. RAHALL. The subcommittee will now hear from the Honorable Rodney E. Slater, Administrator of the Federal Highway Administration, accompanied by Mr. George Reagle, Associate Administrator for Motor Carriers, Federal Highway Administration.

As Mr. Slater is coming forward, let the Chair express his personal appreciation and deep thanks to the Administrator for the visit he honored us with in southern West Virginia a week or two ago. As I mentioned earlier, we had him driving a coal truck on a very deadly segment of road in Wayne County, West Virginia—the same segment, I might add, that we had Chairman Mineta driving a coal truck on a couple years back. His visit to our area and the time that he took from his schedule was most appreciated.

I know that you have been traveling quite a bit of late, Rodney, including to Chairman Baucus' home State of Montana, where you kicked off the other body's hearings on our National Highway System legislation. I commend you and your excellent staff for the manner in which you have worked with our States in submitting that NHS mileage to us back in December ahead of schedule and working with us as the House passed the NHS bill by such an overwhelming margin of 412–12, with you in our House Gallery watching the debate. We appreciate your interest and involvement and work very much.

You may proceed.

TESTIMONY OF HON. RODNEY E. SLATER, ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, ACCOMPANIED BY GEORGE REAGLE, ASSOCIATE ADMINISTRATOR FOR MOTOR CARRIERS, FEDERAL HIGHWAY ADMINISTRATION AND DAVID OLIVER, DEPUTY ASSISTANT CHIEF COUNSEL FOR MOTOR CARRIER LAW, FEDERAL HIGHWAY ADMINISTRATION

Mr. SLATER. Thank you, Mr. Chairman.

Mr. Chairman, Chairman Mineta, Mr. Collins, and other Members of the committee, please know that it is a pleasure for Mr. Reagle and me to be with you today to participate in this important hearing and to discuss a number of issues involving the safe operation of our Nation's highways. As I noted, joining me is George Reagle, who is the Federal Highway Administration's Associate Administrator for Motor Carriers.

The issues we will discuss are of particular concern to Congress' Federal Highway Administration, especially in light of the current consideration of legislation to designate the National Highway System.

Approval of the National Highway System is the Federal Highway Administration's highest surface transportation priority this year. I applaud your efforts and the efforts of the entire committee as well as the Members of the House for taking expeditious action on this most important piece of legislation. And, as you have noted, I did have the pleasure of joining Secretary of Transportation Federico Pẽna as we ventured to Bozeman, Montana, some days ago to begin the process of considering this important piece of legislation with Members of the Senate.

A few comments about the National Highway System and then more specific comments about the issue of safety.

While the National Highway System as currently proposed includes only 4 percent of the country's public roads, it carries, as you know, 40 percent of the Nation's highway traffic, 70 percent of the commercial truck traffic, and 80 percent of the Nation's tourist traffic.

Just a few days ago I took a "red-eye" back to Washington to begin my preparation for this hearing and to attend yesterday a safety event that Chairman Mineta attended as well dealing with rail-highway grade crossings, an initiative put forth by the Department of Transportation and voiced by Secretary Peña yesterday.

The flight that brought me into D.C. at 6 a.m. yesterday, actually started in Nevada, where over the weekend I attended the dedica-

tion of a new scenic byway, U.S. 50, a transcontinental roadway that traverses our Nation and that runs through the heart of our Nation's capital along Constitution Avenue. I mention this particular event, because this particular roadway, the U.S. 50 scenic byway, is a part of the National Highway System. As a matter of fact, in a few days we will be announcing interim grants that deal with scenic byways and a number of those grants will go to improve stretches of roadway on the National Highway System.

I underscore this because the National Highway System is not just a system to provide the easy movement of goods by trucks, but it is a system that will allow us to move as individuals so that we might come to enjoy that which represents the soul of our great Nation, those many tourist attractions across the Nation.

I recently had the pleasure as you noted, Mr. Chairman, to travel through some 14 States over 14 days, traveling some 3,500 miles across our country. It was an effort to look, to listen, and to learn. It began in Buffalo, New York, and we wound our way south to the Mexican border in Laredo, Texas.

The objective was to hear firsthand from those who live not on the interstates or near the Interstates throughout our country but those who live on those other roads, many of which will become a part of the National Highway System. We had an opportunity to hear from them of their hopes and aspirations regarding their communities and the objective to use the National Highway System to improve their quality of life.

It is of critical importance that we have such a highway network that allows us to move goods, yes, but more importantly to move people and to allow them to pursue happiness.

One thing I did on the trip was to spend a considerable amount of time dealing with issues that impact the area of the movement of goods—spending time with motor carriers. For instance, the first day of this trip (14 days through 14 States and 3,500 miles), began with consideration of the securement of steel coils, Mr. Quinn, and it occurred in the Buffalo, New York, area. Again, recognizing the importance of motor carrier activities when it comes to the operation of our National Highway System and the improvement of that system so as to underscore the importance of safety.

Also, in the area of Michigan and Ohio, along the line we had occasion to visit an IVHS Advantage I–75 Project headquarters where Michigan DOT officials demonstrated innovative data collection and integration of techniques for commercial data. Again, the objective of gaining a better understanding for the use of motor carriers along the National Highway System.

Along Highway 51 in Covington, Tennessee, at the Hatchie Bridge that collapsed some years ago, we had occasion to talk to motor carrier safety inspectors, to hear from them about the difficulty and importance of their job and needed resources from the Federal Government to enable them to do their job in a more effective and efficient manner. The trip, as I noted, concluded in Laredo, Texas, and there we participated in a joint operation involving U.S. and Mexican transportation officials working together as a team to inspect and observe motor carriers moving through that most congested stretch of roadway along our border. The ability of all vehicles, including trucks, to move efficiently, safely, and, there-

fore, reliably is a critical component of the success of our transportation system and the economy as a whole.

We believe that approval of the National Highway System which focuses Federal resources on an integrated network of highways linked to critical and key intermodal points is essential to America's productivity in the 21st century. We assure you that we will continue to work with the committee and with all concerned to move forward with this important legislation, but as we move forth we also assure you that safety will also remain a number one concern.

This hearing is intended as a forum to focus attention on and to engage in give and take relating to motor carrier issues. While freight moves by all modes, including rail, water, and air, trucks represent the vital component of almost every delivery of cargo to its ultimate destination. Consider these facts: Trucking represents 77 percent of the Nation's freight bill and 42 percent of the total tonnage hauled by all modes. Thus, trucks play an important role in helping to keep America moving.

Because one of the principal reasons for this hearing today is revision of Federal laws governing size and weight and commercial motor vehicles, I would like to address generally the relationship of the National Highway System and motor vehicle safety and then the pending size and weight proposal.

Recent years have seen a remarkable improvement in motor carrier safety. In 1992, the number of fatalities on our Nation's highways fell below 40,000 for the first time in 30 years. Though still too high, this number is remarkable and deserving of praise when you consider that road traffic has tripled in and during this period of time.

Although the total number of miles traveled on American highways have skyrocketed, the fatality rate, that is fatalities per 100 million vehicle miles traveled, has dropped to a record low. If the rate were the same today as it was in 1956, we would be losing 134,000 people a year.

During the same period, heavy truck safety has improved dramatically. Nevertheless, heavy trucks constitute one of our most serious safety problems and are worthy of discussion and our concentrated attention. Fatality rates for heavy truck traffic remain more than 50 percent higher than rates for automobiles—and note I am underscoring "fatality rates."

Highway safety is health care reform that is already making a difference. Many agencies and groups as well as individuals contributed to the remarkable achievement that we now witness in the area of highway safety. This progress is a product of seat belt usage, airbags, crackdown on drunk and drugged driving, enhanced motor carrier safety, the use of state-of-the-art technology to improve roadway design and vehicle safety standards and more, but let's not forget the tremendous safety impact of the Interstate System.

The fatality rate on the Interstate System is less than half the rate on other highway systems, despite the fact that the Interstate System carries 22 percent of all highway travel in this country and 49 percent of our heavy truck traffic. It is not that people are extra cautious on the Interstates, as I am sure all of you have seen for

yourselves, but rather modern design standards and access control have made the difference, and they can be applied to other roadways as well off the Interstate System.

It is hoped that with the National Highway System we can focus some of these improvements on this particular network of roadways that, as noted earlier, though, representing but 4 percent of the Nation's highways, will carry 40 percent of the Nation's highway traffic, 70 percent of the Nation's truck traffic, and 80 percent of the Nation's tourist traffic. Constructing or reconstructing noninterstate highways to standards appropriate for their function and type and volume of traffic will serve to make a difference.

We are committed as you are to making that difference. You don't have to go all the way to full Interstate standards to make the difference and no one is proposing that we do that, but clearly some improvements are necessary, and by adopting the National Highway System ahead of schedule, we can begin the important work of determining just where and what kind of improvements are necessary along a particular stretch of roadway.

Now, more specifically dealing with the issue of motor carrier safety. I would like to discuss with all of the Members of the committee what we are doing to establish a proactive agenda when it comes to truck safety. I listened to Congressman Oberstar suggest that there is not or may not have been in the past the kind of backbone within the Department of Transportation to deal with these sorts of thorny issues.

I assure you, Mr. Chairman and Members of the committee, that there is that backbone to deal with these issues present today. This is a direct outgrowth of the Secretary's strategic plan that I offer comments about our proactive agenda on truck safety.

Also, I would underscore that during my confirmation hearing, I was asked specifically by Senator Warner, a Member of the Senate Environment and Public Works Committee, that if I were confirmed, would our roads be safer? I said yes then. I meant it then, I mean it today as well.

I believe that our recent appointment of George Reagle, who is here with me today, is an indication and evidences the high commitment to safety that we have within the Department of Transportation. George comes on board as our Associate Administrator for Motor Carriers, but he brings with him a wealth of experience in transportation safety.

Having served as Associate Administrator with the National Highway Safety Traffic Administration and then as a staff member of the National Transportation Safety Board, serving in the capacity of Director of the Office of Surface Transportation Safety. Individuals can make a difference when it comes to formulating policy, when it comes to carrying out the policy, when it comes to having the backbone to stand and to stand firm.

Although the safety of commercial vehicles has improved, we will not be satisfied until we create a crash-free environment. Now, one may laugh at that notion, but our vision for truck safety is to put in place programs to make this a reality in the long term. Let me just offer a few suggestions about how we propose to do just that:

First of all, we will deal aggressively with issues involving human factors. We believe strongly that more emphasis must be

given to this part of the equation. The National Transportation Safety Board statistics prove that across all modes of transportation, 80 to 85 percent of the causative and contributory factors in crashes are human related, thus resulting from human failures.

We need to recognize this fact in our existing program by widening them and their consideration to include speed management, impaired driving, safety belt usage, increased emphasis on fatigue research and the motor carrier safety policies and procedures. We are currently doing an in-depth research on fatigue to determine its magnitude as well as appropriate countermeasures.

There is also some promising in cab-technology that will help in the long term. We are also working with our sister agency, the National Highway Traffic Safety Administration on these issues and many more.

Second, we will accumulate considerable data on motor carriers and drivers, but we will not just allow that data to sit by and have no use. This data will allow us to see where accidents occur and why. The data includes accident and fatality information as well as the results of vehicle and driver inspections conducted at the roadside.

In the past, we have not placed as high a priority on analyzing this kind of information as we should. From this day forward we will. We need to know the causes of all these kinds of activities and how that impacts safety.

For example, what is the relationship between out-of-service rates and accident causation? What are the characteristics of good and bad drivers?

These are just a few of the critical questions we are pursuing and that we will get answers to, information that will allow us to move forth in a more knowledgeable and proactive way to bring about the kinds of changes that are necessary to make our roadways safer.

The questions that we can answer should be driving our program. They should be the underpinning for our efforts. I have spoken of one of those already—human factors. The critical questions we cannot answer should be resolved through research and evaluation.

That brings me to our next area of emphasis, a very focused research program that seeks to answer questions on human factors as well as technology.

And then finally, we must pursue technology that utilizes Intelligent Vehicle Highway Systems concepts so that we are effective and efficient in our work to allow safe drivers, vehicles, and motor carriers to be more efficient. There are other state-of-the-art technologies outside of IVHS. We should look to those technologies and seek to apply them as well.

For example, we know that disc brakes (which dissipate heat) are in much wider use in Europe than in the United States. What steps can be taken to evaluate this technology, and if it proves beneficial what steps can be taken to implement or encourage the use of this technology to a greater extent in the United States?

We also need to explore the appropriate role of the Federal Government in encouraging the use of new technology. For example,

we know that commercial vehicle component manufacturers are working on electronic braking systems for commercial vehicles.

What can we do to evaluate these new technologies? When you discuss these issues or when we discuss them with component manufacturers and carriers, we find that generally incorporating these new technologies into daily use is often inhibited by economic disincentives. Again, what kind of incentives can we at the Federal level offer to create an environment whereby these new technologies will be brought on line?

That is the thrust of our new motor carrier initiatives. But let me also offer a few examples of how this Department has demonstrated backbone in the face of adversity over the last few months in dealing with certain issues that impact the motor carrier community:

First, let me say that in all of our safety initiatives, as we move forth, we work hand in hand with our modal partners within the Department of Transportation. That was evidenced by our Rail-Highway Grade Crossing Initiative announced yesterday.

Our cross-modal safety efforts were highlighted before this committee in a recent investigations and oversight subcommittee hearing. Also, in December of last year, the Secretary took a strong safety position by banning the use of radar detectors and the like, microwave technology for interstate commercial vehicles.

We completed the rulemaking on private motor carriers of passengers, which extended the motor carrier safety regulation to a class of operators not previously subjected to Federal regulation. I might add that both of those proposals had been around for some time. This administration acted on them.

As noted by Congresswoman Morella, after a rash of accidents last summer involving trucks on the Capital Beltway, we initiated a Washington, D.C., Beltway Task Force designed to make this roadway safer. Through our facilitation efforts we have brought together the appropriate people from the State of Virginia, Maryland, and the District. They are now working to implement some 50 or so recommendations that have come forth.

The one thing the group has already done is to eliminate trucks from the left lane of the Beltway. We will be following up with the activities of this committee and will hope to report those to you in the near future. It is our hope that the work of this committee can come to serve as a model for other cities dealing with similar situations.

Within our own national motor carrier safety programs, we are raising the priority of both bus safety and hazardous material carriers. These two classes of carriers will receive a lot more attention in the coming days, months, and years. Also, the administration has requested full authorization funding of the Motor Carrier Safety Assistance Program (or MCSAP) in its fiscal 1995 budget as a component of the Administration's desire for the full funding of the Intermodal Surface Transportation Efficiency Act.

We have finished the first phase of our zero-based review of all of our motor carrier regulations which seek to take a fresh look into our rulemaking process to find out what the major problems are and to create a new set of regulations primarily based on analysis, research, and uniformity.

In February of this year, we issued alcohol and drug testing regulations which cover over 550,000 motor carriers and over six million drivers, both interstate and intrastate. In cooperation with officials of the Maryland Department of Transportation, a few weeks ago we unveiled the "Sharing the road" campaign, with a distribution of over 500 television public service announcements, 1,000 radio announcements, and nearly 2,000 press kits all designed to improve the operation of vehicles, including trucks, on our Nation's highways.

Lastly, we have issued important regulations on State compliance with 22 provisions of the Commercial Motor Vehicle Safety Act of 1986, and with regard to sanctions for drivers who violate an out-of-service order—that is, to move their vehicles before the needed repairs have been made.

Mr. Chairman, Members of the committee, I believe that this Department of Transportation has demonstrated backbone, and we are committed to do even more in the days and months and years to come. Our changes create a program that is preventive in nature, that elevates the human part of the equation to a higher level and that uses technology as our partner in achieving a more effective and efficient program.

Finally, Mr. Chairman, as an issue related to highway safety, as I noted, yesterday we announced the proposed Rail Highway Grade Crossing Act of 1994 which brings together all of the modes of transportation within the Department and that seeks to provide States with greater incentive for closing rail crossings throughout our country.

We are especially focusing on those crossings, some 4,500 of them, on the National Highway System. The plan also includes 55 recommendations and initiatives designed to address and implement these principles that I would like to just make some passing reference to: enhanced enforcement of traffic laws at crossings; enhanced enforcement of rail corridor crossing reviews and improvements; expanded public education initiatives; increased safety at private crossings; improved data and research efforts; and prevention of rail trespass tragedies.

Mr. Chairman, I would be remiss if I did not, while laying out our broad proactive initiative as demonstrating the backbone that we believe we evidence within the Department of Transportation, I would be remiss if I didn't take a few minutes to respond to some of the specific items that were noted in Congressman Oberstar's testimony before the committee today, and I will do that briefly and offer Mr. Reagle and myself for questions on this particular piece of legislation as well as the other pieces discussed.

We have heard various proposals recently, some of which are incorporated in the legislation that we have heard about here today that would freeze or roll back weight limits that concern length limits, State authority and grandfather rights. Needless to say, Mr. Chairman, these are very, very thorny and weighty issues.

The question of appropriate size and weight limits for trucks has always been a difficult one. It conjures up images of grandfather rights from the Interstate era, conflicting views of proper State-Federal relationships, rival economic interests, and the uncertainty as to the operational safety of various types of trucks.

The subject is at least as challenging as the task of approving the National Highway System, something that has taken a considerable period of time. It is our belief that extended fact-finding and debate are necessary to do justice to the truck size and weight issues. Federal vehicle weight limits, both gross vehicle weight and axle weights, currently apply only to Interstate highways.

Considering its size, extending these limits to the entire National Highway System, as has been suggested, would represent a major extension of Federal activity into an area of traditional State authority. Truck size and weight issues are extremely complex. They relate not only to questions of highway safety and stewardship, but to local, State, and national economic performance.

The Department recognizes its overall responsibility for highway safety as emphasized by Secretary Peña's strategic plan and as noted was discussed during my confirmation hearing. At the same time, as transportation is becoming a larger part of goods production as well as distribution systems, the effects of additional regulation on productivity take on a renewed significance.

It is our view that any decision to establish national weight standards for the entire National Highway System should only be taken after thorough study and analysis of all benefits and costs of such an action to all highway users as well as to the economy.

H.R. 4496, which you are considering today, would freeze the weight limits in effect ón non-interstate NHS routes at the start of this year, including weights authorized only by permit. It would also limit semi-trailer lengths to 53 feet.

Further, the bill would repeal the provision allowing States to determine their own grandfather rights, as the so-called 1982 Symms amendment provided. Instead, the Department of Transportation would be required to codify and to freeze all such rights claimed by States or recognized by the Department before the start of this year.

Finally, the bill would require rulemaking to define the term "nondivisible load." This and other similar bills have the laudatory goal of increasing highway safety and addressing highway maintenance concerns by limiting the operations of larger trucks, and we support these goals but believe that solutions may be more complex and that there is more here than appears on the surface.

The Surface Transportation Assistance Act of 1982 grandfathered all trailer lengths longer than 48 feet in lawful operation in that year, both the current and perspective fleet. The Federal Highway Administration later determined through rulemaking that 10 States allowed trailers more than 53 feet long. H.R. 4496 would repeal that provision while allowing only those trailers more than 53 feet long that are now in operation, or built in the year following the passage of the bill, to remain in use.

The largest widely available trailers have grown from 45 feet to 53 feet in length since the early 1980s. The width has increased from 96 inches to 102 inches. This increase has produced significant operational efficiencies for motor carriers and shippers. Longer trailers are used when the commodities they are carrying "cube out" before they "weigh out." That is, relatively low density cargo can fill a vehicle to capacity before it reaches the 80,000-pound Interstate weight limit.

The current statutory scheme for truck size and weight is far from perfect. Vehicle size and weight issues are so difficult and contentious that many administrations have abandoned the field entirely. The result has been a fragmented and increasingly incoherent set of laws determined by the needs of the moment or the path of least resistance.

I was recently astonished to discover that the Federal Highway Administration has not made a concerted and comprehensive effort to analyze size and weight issues for the last 30 years, not since the Bureau of Public Roads, which was a part of the Department of Commerce, submitted House Document No. 354 to the House Committee on Public Works in August of 1964, when President Lyndon Johnson was in office.

The time has come to revisit this issue and to do it in a way that is comprehensive and to do it in a way that is analytical and well-thought out. I believe that a national and, indeed, a global vision is needed to guide us into the 21st century. All of our recent initiatives have been or have had this goal in mind, but it is now time to look at it holistically, in the same way we approach NAFTA, in the same way we approached the National Highway System.

I believe a fundamental reexamination of all vehicle size and weight issues is necessary. We as a Nation simply cannot afford to continue muddling along with no vision for the future. We are all concerned about the safety of our highway systems, we are all concerned with the integrity of the physical infrastructure of that system.

We will prioritize this vision, and we will make it a reality if we work together. We will begin in the Department with a thorough reexamination of all that I have mentioned thus far:

First, internally, and then through a dialogue with all affected parties. We would seek an opportunity to visit with all on this committee who are interested in this matter, including those who have brought their opinion forth today. We will do it much in the manner we are addressing our zero-based review of all of our motor carrier regulations, with an open mind, with a commitment to spend the time to put together a program that will take us where we want to go.

Again, Mr. Chairman and Members of the committee, thank you for the opportunity to be with you this morning, and I am glad to have had this opportunity to discuss an issue that is of most importance to our economic well-being as a country and to our safety as members of the traveling public.

We will be pleased to entertain any questions you may have.

Mr. RAHALL. Thank you very much, Rodney, for your well-prepared testimony.

The Chair recognizes the distinguished Minority Ranking Member of our full committee, the gentleman from Pennsylvania, Mr. Shuster.

Mr. SHUSTER. Thank you, Mr. Chairman, I certainly appreciate it.

First, Mr. Chairman, I was a little surprised to see that there are no railroads listed as witnesses. I would presume they had an opportunity to testify if they wanted to?

Mr. RAHALL. It is my understanding they did not request to testify.

Mr. SHUSTER. Thank you.

Mr. Slater, you are doing a superb job. I said it on the Floor a couple weeks ago and I want to compliment you for the outstanding job you are doing.

Mr. SLATER. Thank you, Mr. Shuster.

Mr. SHUSTER. My question is really a two-part question. It deals first with the evidence that we have been given that of the 20 highway safety improvements with the highest cost-benefit ratios, only three are rail-highway improvements, and, in fact, not one of the top 15 are rail-highway grade crossing related.

Therefore, the first part of my question is, should we give more flexibility to the States so that the money that we now demand they spend on rail crossings be eligible to be spent on other safety-related, higher-priority items?

And the second part of my question relates to the fact that railroads generally don't pay anything or pay very little for rail crossing improvement. I am wondering if we should focus on cost-sharing so that when we do improve rail grade crossings, we get more bang for the buck by requiring that the railroads put up some of the money.

Mr. SLATER. Okay. Well, let me deal with the second question first and then move to the first question.

Clearly, as we come to a time where we are entering the post-interstate era, we have to start thinking more about the intermodal nature of our transportation system. One area that receives attention when there is an accident is the area of the rail-highway grade crossings. It is our desire to give it more attention, because while you don't have a large number of accidents that occur at highway-rail grade crossings, when they do occur, they are accidents that generally prove to be fatal. So it is a matter that is deserving of attention.

Yesterday Secretary Peña, joined by a number of us who head the various modes, announced an initiative where we seek to focus on highway-rail grade crossings, and as a part of the incentive to encourage cities to close some of those crossings, we did offer some resources from the Federal level or made some of those available to be matched by a commitment from the private sector, the railroads. That is an effort on our part to encourage the railroads to become more of a partner when it comes to dealing with this very important issue.

Mr. SHUSTER. You mentioned that.

I also was surprised to learn, I guess I should have known it, that trains are not required to slow down at the crossings. If we required them to slow down, wouldn't this be another way to improve safety at the crossing?

Mr. REAGLE. Mr. Shuster, my experience from the Safety Board is the railroads consider that their road, number one. And I think the second thing one must take into account is just the stopping distance for a train. To my knowledge, I guess a train going 60 miles an hour, it would probably take over a mile to stop.

Mr. SHUSTER. That may be the case, but it doesn't address my question if we required trains to slow down, wouldn't it reduce the number of accidents and particularly the fatal accidents?

Mr. REAGLE. It could certainly, just the physics of it would tell you the slower the train——

Mr. SHUSTER. Sure.

Mr. REAGLE. But the train, when it hits anything, as you notice from the physics, there is a tremendous load there, so I don't know at what speed you would have to reduce it to in order to get the result you wanted.

Mr. SHUSTER. That is something you might want to look at.

And the first part of my question in the flexibility of letting the States spend the money where they think they get the most bang for the buck on safety?

Mr. SLATER. Sure. In that regard, clearly we want to heighten the issue of rail highway grade crossings because of the likelihood of fatalities when accidents occur. But we also believe that through the planning process, the States will have a lot more flexibility when it comes to making strategic transportation investments, and through the planning process they will probably start to deal in a more comprehensive sense with how the various modes of transportation relate, and we think that, too, is something that will be helpful, but we plan to encourage the flexibility that has been embodied in ISTEA, and I think your question goes to that very point.

Mr. SHUSTER. Thank you.

One final point; the recent maintenance-of-way strike, as I understand it, was over the safety concerns of the trains going too fast while the workers are working on the track. I perhaps am the only Member of Congress who worked as a gandy dancer and a maintenance-of-way laborer, so I am particularly sensitive to that particular issue. Isn't this another part of the whole speed safety question of getting trains to slow down so lives can be saved?

Mr. SLATER. Well, I would have to say that the speed of a train is definitely something to be taken into account, but there are also a number of other factors, and one of the main factors is the whole trespassing issue, and all of that has to be considered as we take into account what the actual cause of an accident might be. But I clearly understand the essence of your question to be, doesn't there have to be a balancing of the concerns and the roles that we all play when it comes to improving the whole issue of safety, especially those in the private sector that are involved in activities that represent money making ventures? And your point in that regard, sir, is well taken.

Mr. SHUSTER. Well, thank you very much.

Thank you, Mr. Chairman, for your forbearance. I really appreciate it.

Mr. RAHALL. Thank you, Bud.

Mr. Administrator, you have given quite a dramatic view to us of the manner in which fatalities have declined on our Nation's highways, and some rather startling statistics, and you have shown how indeed truck safety has improved since the start of the interstate system in 1956.

I could not agree with you more when you stated that highway safety is health care reform. It is already making a difference. I think that is certainly an accurate statement.

It is also rather astonishing to see, as you related to us today, that the FHWA has not made a concerted and comprehensive effort to analyze size and weight issues in the last 30 years, not since Lyndon Johnson was President. I think that is rather startling as well. So from your comments, I take it that the FHWA's position on the proposal being advanced by Representative Oberstar to freeze truck sizes and weights on the NHS is that more study is needed, and that you do not support the legislation. Is that an accurate statement?

Mr. SLATER. I think we can clearly say that more support is needed. I would have to admit, though, that there are certain things in the legislation that are good, but our big concern is that in the past we have basically approached this issue by dealing with the issue of the moment, dealing with the highest concern at the time.

What we suggest is that we give a comprehensive view to the subject and give significant and detailed study to the issue so as to come forth with a proposal that covers the waterfront, that does what we haven't done in the last 30 years. And to just respond without doing the necessary analysis would not be appropriate in our thinking. So it is not that we are in total disagreement with the things that are addressed in the bill, it is just that the issue of safety as we view it is broader than those things encompassed in the bill and to not give time for consideration of the varied issues would not be a way of appropriately addressing this very, very important concern.

Mr. RAHALL. Do you have any evidence or reason to believe that the States are abusing the so-called Symms amendment that precludes the Federal Government from reviewing the State grandfathered right claims?

Perhaps Mr. Reagle would like to respond.

Mr. REAGLE. We have a person who hasn't been here since 1964, but almost that long, Mr. Chairman, who has worked on the issue. Since Mr. Slater and I are new to this, I would ask Mr. Oliver to perhaps respond to that.

Mr. RAHALL. Sure.

Please identify yourself for the record, Mr. Oliver.

Mr. OLIVER. Mr. Chairman, David Oliver, Deputy Assistant Chief Counsel for Motor Carrier Law, Federal Highway Administration.

Mr. RAHALL. Thank you.

Mr. OLIVER. In terms of flagrant abuse, we could say that perhaps the entire West, outside of California, has made use of the Symms amendment. What the Symms amendment did was in effect open the way for the LCVs and the special permits. Usage and flagrant abuse—that is a very fine line.

Many, many States have used the Symms amendment. In terms of abuse of the Symms amendment, I don't know that we would single out any particular State west of the Mississippi for the LCVs, but certainly it is there.

East of the Mississippi, in terms of the non-LCV uses, there has been usage of the Symms amendment to legalize higher axle weights, primarily through permitting.

Mr. RAHALL. All right.

Let me ask you about our colleague Representative Lipinski's bill, in the event that you have had a chance to review it. It provides incentives for the States to adopt covered load laws. I wonder if FHWA has a position on his legislation.

Mr. SLATER. First of all, it is clear that such a practice would be helpful when it comes to preventing accidents that occur from materials that fall off trucks. You have got all of the highway cleanup costs that are associated when items fly out of the back of trucks and that, too, could be prevented. But frankly, we give the States the discretion when it comes to the use of the tarps rather than a Federal law mandate that they be used. We would have to know if it would have pretty significant economic impacts to change that. So our approach in the past has been basically to just leave that as a matter of discretion to the States.

But this, too, would be one of the issues that we would take into account if we were to have the opportunity, sir, to really continue what we are doing, and that is to look in a comprehensive way at all actions and regulations impacting the motor carrier industry, and to come forth with something that would not be piecemeal but would be something that would really give this area, this industry, the kind of focus it needs and deserves when it comes to regulation on the part of the Federal Government.

Mr. RAHALL. Would that position hold true as well for Representative Morella and Representative Byrne's legislation in regard to minimum penalties for violations of motor carrier safety regulations?

Mr. SLATER. Yes, it would.

Mr. RAHALL. So I guess the bottom line then, Mr. Administrator, is that we are looking at the Motor Carrier Safety Act of 1995 or 1996?

Mr. SLATER. The dates we aren't sure but clearly our objective would be to work towards that end.

Mr. RAHALL. Thank you very much, Rodney.

The Chair recognizes the distinguished Chairman of the Aviation Subcommittee, Mr. Oberstar.

Mr. OBERSTAR. Thank you very much, Mr. Chairman.

I appreciate being an ad hoc Member of your subcommittee.

I have just one question, Mr. Slater. I don't understand why it takes time to study an issue so clear and simple to me of just freezing in place the existing lengths and weights. What study is needed?

Mr. SLATER. Well, first of all, in dealing with the issue of safety, there are many other concerns that have to be taken into account beyond just lengths and weights also——

Mr. OBERSTAR. Well, you haven't listed them, so could you tell us what are those other factors?

Mr. SLATER. Many of them are behavioral that concern the driver, that concern road conditions and improvements that are necessary. It is our hope that the——

Mr. OBERSTAR. Like more training for drivers?

Mr. SLATER. More training, yes.

Mr. OBERSTAR. Better certification process. That is fine. We can do that. But why, in the meantime, why create a condition for trucks to grow?

Why couldn't we just agree that enough is enough, that big is big enough?

Mr. SLATER. Well, up until this point our uniformity on that question has basically been limited to the Interstate System. When you start to apply it to a system that will be over a hundred thousand miles larger than the Interstate System, there are many other considerations that have to be taken into account, not the least of which——

Mr. OBERSTAR. Are you leaving open the door for trucks to grow then?

Mr. SLATER. Not necessarily, not necessarily, and we don't plan to at this time. We are committed to moving on this issue in a reasonable fashion, and would offer that much of your work to this point would be very helpful to us, and we would look forward to working with you on the matter. But to go beyond the Interstate System to the entire National Highway System would be quite significant, and we would be doing it with a focus on safety but without appropriate consideration being given to a number of other factors, not the least of which would be economic concerns.

Mr. OBERSTAR. Well, safety is one of the factors, and I consider it to be the——

Mr. SLATER. Oh, safety has to be our number one consideration.

Mr. OBERSTAR. But also protection of the infrastructure itself. I just feel that at the dawn of the new era of highway construction that we should not allow trucks to grow bigger, heavier, longer, visiting more damage upon the road surface when we have it within our power now to say enough is enough, big enough today, not any larger or longer. And in 1982 in the Surface Transportation Assistance Act, we wrote the language that put length limits on Interstate highway and the Federal aid, primary system highways I won't go through but it is Section 411 of the Surface Transportation Assistance Act of 1982, and we didn't have any big long studies then.

What my concern is that, you know, truck lengths have gotten longer and weights have gotten bigger, and if we don't take some action to draw the line, that now that we have got another new highway program, the argument will be, well, now we can let them get bigger and heavier.

Mr. SLATER. Yes.

Let me just say that I think your point is well taken. I think the line needs to be drawn. Our position is that at present without a better understanding of the kind of impact that this proposal would have if it were to apply to an additional 100,000 miles, we just aren't sure where that line should be drawn, but to draw it is something that we should probably do, but we can't say today where it should be drawn.

Mr. OBERSTAR. How long a time do you envision a study to take?

Mr. SLATER. I can't be specific about that.

I noted that the Chairman earlier said Motor Carrier Act of 1995, 1996. I don't want to be that specific. I will say this: I think

if you look at the actions of this Department of Transportation over the last 18 months, you would agree that it has been a Department committed to action, that we have dealt with issues that have been on the table for many, many years.

As I noted during my testimony, I was astounded to discover that this whole question of size and weight had not been dealt with in a comprehensive fashion within the Department for some 30 years. We will deal with it, and we will start the process now as a continuing effort within the Department to make safety the number one priority, so without——

Mr. OBERSTAR. We clearly have your attention?

Mr. SLATER. Oh, definitely.

Mr. OBERSTAR. I like your spirit and I like your approach, I like your vigor, your desire to accomplish something, but when I said in my testimony that my experience over the years with the Department, and that goes back over a very long time, over 30 years around here, is that it has taken the Federal Aviation Administration four years to try to figure out how long flight attendants ought to work on board aircraft, it has taken a similar number of years to revisit and revise the requirements for pilots, it has taken ages, ages to get something done about cleaner air on board aircraft. I will stop. There is a long list of things that rulemaking takes forever.

Mr. SLATER. Right.

Let me, if I may, just say it will not take that long.

Mr. OBERSTAR. Maybe we can draft you for the FAA.

Mr. SLATER. I am committed to dealing with the issue. We have already started discussions with the Secretary's staff. You do have our attention on this, and we also know how important this is to the National Highway System, to the National Transportation System that the House-passed NHS bill would authorize to submit within two years after the passage of the NHS.

We are very sensitive to the timetables we are being given and to the importance of this issue as relates to those very important issues—the NHS and the NTS, and we will give it the highest of priority, I assure you that.

Mr. OBERSTAR. Thank you very much.

Our friends in the trucking industry could help the cause a great deal if they would just simply line up and say, we agree, we are not going to let trucks grow bigger than they are now and we are going to make them safer and we are going to agree to all these things that are in everybody's interest.

Airlines have done that. They have lined up to agree on aging aircraft and on more intensive inspection and more frequent maintenance schedules. I think it would be in the public interest and the best interest of the trucking industry to do the same.

Mr. SLATER. Sure.

Mr. OBERSTAR. Thank you.

Thank you, Mr. Chairman.

Mr. SLATER. Thank you, sir.

Mr. RAHALL. The gentleman from Georgia, Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman.

Mr. Administrator, I really do appreciate the fact that you are taking a conservative view of changing regulations and implement-

ing new regulations. Not only should we probably look at the freeze on the size of pieces of equipment or weights and sizes and lengths, but we might ought to take a look at putting a freeze on the size of government and the size of the Federal regulation book because there has been a lot of changes since 1986 in Federal regulations dealing with the trucking industry from the standpoint of drivers as well as equipment in some of the things that are now causing the industry and costing the industry quite a few extra dollars for operation.

In your study, do you have any guidelines as to how you plan to go about that, who all will be involved in it or do you plan to—do you have some ideas in mind?

Mr. SLATER. We have some general ideas in mind.

First, we will look at it internally and just try to get some sense of, you know, who the key players are and especially as we move into this era of intermodalism, how the various modes and their interests would impact this whole question, but it would include working with the Members of Congress, it would include going into the private sector working with, frankly, a number of the individuals in the audience here today. But as far as laying out a schedule or a program for all of that, we have not gotten to that point just yet.

I will say that we would start with a study that was done by TRB in 1990, that I think really does a good job as far as addressing many of the issues that we would have to consider. It does not go so far as to deal with the NHS and how applying these weight and length questions would impact the NHS, but that is one thing that we would have to do that would be additional, but that study, I think, would give us a good start.

Mr. COLLINS. Good. I don't think you can find better information than what you will find in the private sector dealing with the industry itself. I know in the area of just looking at the statute dealing with drivers' licenses and a driver who is convicted of DUI or substance abuse while driving a commercial vehicle is somewhat different than what we really face in the industry. You have a one year suspension on first conviction of driving DUI in a commercial vehicle. I know when we take application for a driver, we submit that to the insurance company and if they have had a DUI in the last five years driving any type of vehicle, whether it be commercial or a personal vehicle, the insurance company frowns at hiring such an employee. So I think you could find some real good assistance out there in the private sector.

And I refer back to Georgia. I haul timber, forest products. Several years back we had no regulations in the intrastate transportation of forest products, but through the Transportation Committee of the Georgia Forestry Association we decided that we wanted to put some requirements and regulations out there to try to clean up our own show to improve safety, to improve the image of the industry, and we began to compile and work with the Georgia Public Service Commission, and we came up with our own criteria for out of service, for suspension of drivers, for the whole thing, the whole nine yards.

It worked very well, we were able to put that into State law, but it came primarily from working with the Public Service Commis-

sion and the industry itself. So I am pleased to hear that you want to work with Mr. Donohue and others who are in the industry to try to come up with a compromise that will not be detrimental to either side and yet enhance safety.

Thank you, sir.

Mr. SLATER. If I may, let me just say that your point is well taken there. As a matter of fact, we have been pleased with the kind of support we have received from the trucking industry in particular on some of the really tough issues that we have addressed. We have had extensive contact.

I don't need to tell you, but a lot of times we have disagreed, but in many instances we have agreed, and we have always agreed to just continue to try to work through these issues together. And I believe that my colleagues heading the other modes would be in a position to say the same thing about those in the private sector with whom they work. I know that I have found that to be the case with those with whom I have worked.

Mr. COLLINS. Well, that is good. We don't need to lose sight of the fact that no matter how you ship a product, whether it be by rail, air or truck or whatever, the same people pay the price for that commodity, and that is the working people of this country, the same people who try to provide for their families, and they are stretching their dollars every way they can go now and anything we do here that enhances the cost of the consumer product takes less and less—leaves less money in their budget for the purposes of purchasing those consumer goods, so we need to be very careful what we do. And I am glad to hear you use the word "economics." It does play a major role in any type of regulations or changes that you make.

I thank you.

Mr. SLATER. Thank you, sir.

Mr. RAHALL. The gentleman from New York, Mr. Quinn.

Mr. QUINN. Thank you, Mr. Chairman.

Let me again thank you, Mr. Rahall, for allowing me to be an ad hoc Member, so to speak, of the subcommittee this morning as well.

Mr. Slater, as I mentioned in my opening remarks, and I want to thank you again for the visit to Buffalo, New York, where we have been talking about load securement, a different safety angle than much of what we are talking about this morning, and you addressed the problem a little bit when you were up there recently. I think we can agree that we are talking about working together as we have on other instances this morning, bringing the private sector in.

I am just wondering if you can tell us how soon we might see some of those regulations that we have been talking about?

Mr. SLATER. I am just pleased to share with you, Congressman, that we are going to see the regulations on the cargo securement proposal this month.

Mr. QUINN. That would be great.

Mr. SLATER. I was also pleased to see firsthand the problem that you had brought to my attention while I was in Buffalo. I would also like to note, Mr. Chairman, Chairman Rahall, that one of the winners of the Administrator's Safety Award this year will be a

safety organization out of your State, sir, and I am looking forward to making that announcement, and it deals with the coil securement, so this is something that has received a lot of attention on our part. And I know that we are a little late on the regulation, but we needed a little more time and we are going to do that, we are going to make it official this month.

Mr. QUINN. That is great. I appreciate your work very, very much, and maybe if that is your State and Buffalo, maybe I am on the wrong subcommittee.

Thank you.

Mr. RAHALL. The gentleman from North Carolina, Mr. Valentine.

Mr. VALENTINE. No questions.

Mr. RAHALL. Mr. Administrator, let me ask you one final question before we let you go.

We appreciate very much your patience in being with us all morning as you have.

I don't want to preclude his testimony because our next witness has a way of wanting to deliver his own thunder in his own way, but Tom Donohue is going to follow you this morning, and in his statement he discusses a problem with the commercial drivers license program. He notes that FHWA is not addressing the fact that not all States are transmitting data on suspension, convictions and revocations as the Congress required.

Rather it is your intent to contract for study on this issue, and quite frankly, I am leaning toward the opinion that perhaps Mr. Donohue is correct that another study is not needed. We put into the law a penalty for noncompliance, so I guess I am asking why you feel that further study of the issue is warranted.

Mr. SLATER. I know that Mr. Reagle and Mr. Donohue have had a conversation of late. Why don't I ask George to respond in a general sense?

Mr. REAGLE. We are not on a contract, Mr. Chairman, with respect to that issue. As a matter of fact, we have identified it as a problem, we have sat down with the motor vehicle administrators in every State and started a discussion and hopefully fairly quickly get to the root of it and then start working it.

There is no contract in mind. We are aware of it, we have begun to collect some data. The State of Indiana, the motor vehicle administrator there, has done a quick and dirty study. We have looked at that. We have talked to all the other administrators on the executive committee. They all agree that is a problem or a potential problem and we are working with them on it, and we will continue to work and it is a serious problem we need to resolve.

Mr. RAHALL. Very good.

Let me ask you if you are in a position, Mr. Reagle, to discuss issues relating to the anti-lock brake system rulemaking?

Mr. REAGLE. Mr. Chairman, you probably asked the right person, who wished he wasn't here, but I was involved with NHTSA in that issue in 1977, and quite frankly had a full head of hair then. I am somewhat aware of where NHTSA is on that, and I was involved in 1977 when the agency did do it.

Mr. RAHALL. Well, perhaps we can ask you if you would respond for the record, if not at this particular time, in regard to Mr. Donohue's concerns that innovations, Federal regulation and inno-

vations such as brake-by-wire systems and disc brakes will be stifled.

Mr. REAGLE. I would prefer to do that for the record, Mr. Chairman, since it is our sister agency.

Mr. RAHALL. Sure, as long as we may have that response.

Mr. REAGLE. Quickly.

[The information received follows:]

Statement of Associate Administrator for Motor Carriers George L. Reagle, in response to a question from Chairman Rahall:

When I came into this job, I made working toward the development of improved air brake systems one of my top priorities. I initiated a series of meetings with the ATA to discuss ways the government and industry could work together in evaluating new technologies such as "brake by wire." The first meeting was held in April and consisted of very candid dialogue between myself, Mr. Donohue, and the other industry representatives. Although Mr. Donohue expressed concerns about NHTSA's ABS rulemaking at the April meeting and at these hearings, it would be inappropriate for me to comment on another agency's pending rulemaking. I would like to defer any questions about NTHSA's rulemaking to that agency.

I will continue my efforts to work with the ATA and others in conducting future brake system workshops. The first meeting ended on a very positive note and I believe the FHWA, NHTSA, and the ATA can accomplish a great deal working together to address brake system issues.

Mr. RAHALL. Thank you very much, gentlemen.

Mr. Administrator, again, thank you for your testimony today. We appreciate it.

TESTIMONY OF THOMAS J. DONOHUE, PRESIDENT AND CEO, THE AMERICAN TRUCKING ASSOCIATIONS; CHARLES RATLIFF, SENIOR GROUP MANAGER, FRITO-LAY INC., REPRESENTING THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE, ARLINGTON, VA

Mr. RAHALL. The subcommittee will now hear from the panel consisting of Mr. Thomas J. Donohue, the President and CEO of the American Trucking Association, Washington, D.C. and Mr. Charles Ratliff, Senior Group Manager, Frito-Lay, testifying on behalf of the National Industrial Transportation League, Arlington, Virginia.

Tom, we welcome you to the subcommittee. We do have your prepared testimony which will be made a part of the record, as in the case with all witnesses, as if actually read. You may proceed as you desire.

Mr. DONOHUE. Mr. Chairman, with the indulgence of the Members of the committee, I would like to mention today someone who is accompanying me here. This individual over his 20 year career at ATA has probably spent more time with this committee and in this committee room than anyone in recent time. At the end of this month he will be completing his one year phase-out of his retirement from ATA, and with his wife Lucy moving to Florida to enjoy the good life of fishing and gardening and carrying on without ever again in his life going to a fund-raiser.

Allan Jones brought more integrity and more energy and more dedication to this chore for any industry than any of us know of. He has been a great credit and a pride to our organization, and I think to yours and I just wanted him for a moment to stand up on his last official appearance here and be recognized.

Mr. RAHALL. Let the Chair associate himself with your remarks as it may be the only opportunity he will have to do so today. The 20 years appears to have been kind and good to Allan because he looks as young today as he did at that time, and I know that he has served very well and done a tremendous job for ATA and has won a great number of friends and much more respect on the Hill than perhaps your words could ever adequately describe.

Mr. DONOHUE. Mr. Chairman, we are going to miss him.

May I then say that ATA and all of us in the trucking industry wish to congratulate and thank you for the excellent job the committee and the whole committee has done in bringing out the National Highway System bill that is very, very essential to our industry and to our country and we appreciate that very much.

Let me begin today by saying that safety is the most important subject that is covered at ATA. Over the last decade we have worked with the committees of the Congress and the DOT to assure the passage of the commercial drivers license, to assure prohibitions against the use of radar detectors, to put in place requirements for mandatory random drug testing and to encourage the increased funding that has brought us the 1,000 percent increase in

the number of roadside inspections, 1.6 million inspections in 1993, and more in 1994.

There is a chart right over here, Mr. Chairman, to your left that brings us to the bottom line. That is between 1982 and 1992. While the miles that we drive have increased almost 43 percent, the rate of fatal accidents has dramatically dropped by 39 percent in big trucks, and that is because of what was done in this committee at DOT and in our industry.

We can all be proud of these accomplishments, but there is still much more to be done. These safety results build on the programs of the past, and they are very, very important to us, but we now must look to the programs of the future, and I would like to mention a few of them very quickly, and then we can go to the questions.

First, you know we are all dealing with the question of drug and alcohol testing. We strongly support it, with some opposition within our own industry. The DOT drug testing programs enjoined them in court to defend roadside drug and alcohol tests from those who complained about it.

However, the new rules that have just been coming forward, they expand the 50 percent testing rate to interstate carriers, and they also require preemployment alcohol testing and they mandate carrier administered carrier testing, and they simply don't pass the common sense test.

Why do we need to test 50 percent when 25 percent will do, when DOT tests only 25 percent of their employees, and the amount of money involved is astronomical? Why would we be asked to do preemployment alcohol testing? This is a stupidity test. It is not an alcohol test. Anybody that comes in looking for a job that is drunk, we won't hire them. But the amount of money involved runs into the half a billion dollars.

Instead, what we should do, we should get a system where there is roadside testing of those who might use alcohol. It is very important that we use a sensible approach to this that doesn't cost a half a billion dollars.

Now, you were kind enough on the second subject to raise the question of the commercial driver's license. So I will skip past that because you got a commitment from the administrator, who, by the way, has been very cooperative, to look into this matter. It is a serious matter. If we don't address it, we won't have a single license in this country.

I would move to the anti-lock-brake question, which you also raised with the administrator. I would like to make a couple of comments about that, if you would allow it.

This industry supports anti-lock brakes in trucks. We are encouraging our members to buy more and more of them all the time, to test out the products, to work on maintenance, and to introduce them in an orderly fashion. We are very concerned, however, that what appears to be coming out from NHTSA is a requirement for us to put them in place as early as 1996.

Now, if you take the report of one of our largest and best managed carriers, the 29 percent of the trucks they get from the newly manufactured trucks, the anti-lock brakes don't work, and if you

look at some of the other problems we have, you would see why we are more in favor of a phased-in system.

I have encouraged and we have encouraged NHTSA to require 25 percent of new purchases in 1997, 50 in 1998, 75 percent in 1999, and by the year 2000, have all new trucks with these brakes. Common sense here would also be helpful.

Now, Mr. Chairman, let me hit just a few contentious safety issues, if I might. These are not easy to deal with, because they are not based on legitimate safety concerns in some instances, and in others they don't meet the economic test. Let me say a word just about the size-of-weight issue. It has been debated here all morning. The bill creates a bit of a problem for us, as you might imagine.

First, if this bill were enacted, it would do two negative things. It would effectively freeze trucking productivity in this country and leave us noncompetitive with Mexico, Canada and the European Community. And second, it would significantly increase truck traffic in this country.

We are going to have with a simple 2.8 economic growth 30 percent more truck traffic in the next five years in this country, and that is if the railroads can double their intermodal freight. We are going to have to drive 31 percent more miles, and we are going to have to put 14 percent more heavy trucks on the road.

Now, if this is the case, we ought not create artificial barriers to productivity. I am not suggesting we increase the size of trucks. I am suggesting that if, for example, this legislation had been passed and put in place, the act of the assembly in California in recent times to increase the weight of intermodal, international containers, and allow it to be taken from the port to the rail head, would have been illegal, and then the ships would have had to go to Mexico or Oakland, where it would have been legal.

So what we need is a dose of common sense on this issue. And we need to recognize that the real question is not about size and weights. It is about safety, and the numbers speak for themselves, and it is very much about economics.

If we freeze in place that which we are allowed to do over the next years, we are going to have more trucks, we are going to have more air pollution, we are going to have more accidents. And we need to apply some common sense.

I am sorry Mr. Oberstar left. I was going to point out to him the tremendous new airplane that was just introduced. We all read about it the other day. It is the biggest thing that has ever come down the pike. It scares the hell out of me. But, you know, we have to look to new technology where it makes sense.

Let me just go forward and talk about two other issues. One is safety enforcement. You know, we have to do enforcement. If we don't, people won't pay attention to the rules. Mr. Collins knows that. It is the thing that keeps the hammer on the drivers, make sure they understand the company is going to be strict with them and so will law enforcement.

But, Mr. Chairman, we have got a problem with law enforcement. In some States in this country we have enforcement that is based on, can we raise some money for the school district, can we

get some fines for the local—whatever they are spending the money on.

We had one fellow stopped not long ago. He was 45 minutes over his 70 hours for the week and he had a fine in excess of $1,000. We have people stopped all the time and they have one brake, out of all of them, out of adjustment, and they get big fines, or one light out of dozens of lights on the top of the trailer out and they get a big fine.

If we are not careful, if we don't use safety and roadside inspections based on safety, if we are using it to raise revenue, you are going to find people looking for every possible way to avoid the safety inspection system.

And that also applies to the question of the whole safety rating. For years, a safety rating has been based on what is the overall performance of the company. And by the way, we have some bad ones, and they ought to have a bad safety rating.

But when it is used as a way to put companies in the cube for an inspection, when it is used indiscriminately to put people what amounts to out of business, we again lose respect and the intention of the law. And we need to have a situation that is accurate, is based on relevant data, that lets people pursue their due process, that focuses on unsafe carriers and gets rid of them, but most of all maintains credibility.

And I must comment and compliment George Reagle, the New Motor Carrier Administrator. He understands this. He is leaning on the safety inspectors about it. He wants a vigorous program but one that is based on common sense.

Let me then conclude, Mr. Chairman, in summary, we are very proud of what we have done collectively to improve highway safety. We want to work constructively with the subcommittee and with Federal agencies to make further strides in safety. But this relationship will be jeopardized if we allow ourselves to be sidetracked by nay-sayers and prophets of doom who want to manipulate the issues and the numbers to achieve their own ends.

It is very easy and it is very popular sometimes to attack trucks and to attack those that regulate them for having not enough backbone. But the fact is that every community in this country is dependent today on trucks to survive.

This argument is about jobs. This argument is about safety and jobs. And there are five million trucks on the road right now of some size or shape helping this community and our economy. And we need to keep that in mind while we are doing our business.

And, Mr. Chairman, I want to just say one more time, you have been a great supporter of safety and of the industry, and we are prepared to work with you to do whatever makes common sense. That is a little difficult to get sometimes in government, but if we can get a big dose of common sense we will continue these statistics over here, the miles will go up another 30 percent and the fatalities will continue to go down.

Thank you very much.

Mr. RAHALL. Mr. Ratliff.

Mr. RATLIFF. Good afternoon. I am Charles Ratliff, Senior Group Manager for Frito-Lay, Inc., the Nation's leading snack company and a consistent supporter of trucking safety. An operating division

of Pepsico, Frito-Lay employs 28,000 people nationwide in manufacturing and distributing over 100 product lines. My responsibility is managing the company's fleet operations.

I am here representing Frito-Lay as a member of the National Industrial Transportation League, which represents a broad spectrum of companies using all modes of transportation to move goods intrastate, interstate, and international commerce.

As shippers, the safe movement of goods is our primary concern. I thank Chairman Rahall and Members of the House Surface Transportation Subcommittee for allowing me to refute H.R. 4496, the proposal to ban trailers more than 53 feet.

Frito-Lay's total fleet of trucks is the third largest private carrier fleet in the country. Last year our fleet traveled in excess of 231 million miles, consuming nearly 25 million gallons of fuel. More than 1,100 over-the-road drivers and 12,000 route sales personnel deliver our products from our plants and distribution centers directly to retail outlets. Our over-the-road fleet includes 850 tractors and over 2,100 trailers, travels more than 76 million miles annually. It is this fleet that would be affected by the proposal to ban trailers longer than 53 fleet.

Frito-Lay snack foods are light and bulky. Shipments of our finished goods almost always cube out before reaching the 80,000 pounds gross vehicle weight limit. We are not unique in this aspect. The ability to ship in longer trailers helps Frito-Lay and other low-density shippers reduce costs per unit of transportation, thereby giving Americans a better value for consumer products.

Moreover, the increased productivity of these larger trailers reduces the number of miles of wear and tear on our Nation's highways. Like many shippers of light and bulky products, Frito-Lay has developed a highly efficient, cost-effective distribution system utilizing trailers designed to meet the allowable length restrictions in the various States.

A safe driving environment is a priority for Frito-Lay, not only to project a positive image to our customers and consumers, but to protect our employees and enhance the company's efficient operations. We are proud of the fact that more than one-third of our over-the-road drivers have at least one million accident-free miles under their belt, and another 38 have reached 2 million accident-free miles.

We are proud that we were the first company to get the DOT approval to install on-board computers for driver logging purposes, which allows us to monitor our drivers' activities and ensure accurate reporting.

To maintain this enviable safety record, we train our drivers thoroughly, and our truck maintenance is unsurpassed. Equally important, our intrastate trucks receive the exact same maintenance that our interstate trucks receive. As a matter of fact, the drivers and trucks are used interchangeably for interstate and intrastate loads.

Ten percent of Frito-Lay's tractor trailer fleet exceeds 53 feet in length. Replacing these with 53-foot trailers would create an additional 2,000 trips annually, forcing our fleet to drive an additional 800,000 miles. Further, it would increase the cost of our consumer products over $1 million a year.

We strongly believe the proposal to roll back trailer lengths to 53 feet is a bad idea for the following reasons.

Safety: Safety is achieved through the strict enforcement of safety laws and regulations, not from limiting the size and weight of a vehicle. Let's remember, the safest mile is the one that never has to be driven.

Highway congestion: Shorter trailers will increase the number of trips and miles, and will result in a more congested highway system.

Environmental concerns: Additional trips and miles will add more wear and tear to the national highway system than would the slightly increased axle weight on longer trailers hauling light and bulky goods. Additionally, energy would be consumed, resulting in increased exhaust emissions.

Consumer goods cost: The cost of consumer goods would be increased by the additional distribution expenses generated by more trips and more miles, resulting in requirements for increased capital assets with no offsetting reduction in tax dollars required to support the national highway system.

Competitiveness: Increased distribution costs put a greater burden on American-produced goods competing with imported goods, another step backward in the arena of global competition.

In closing, let me reiterate that limiting tractor trailers to 53 feet or less is not in the best interest of the consuming public and will not benefit the national highway system in any way.

I appreciate the opportunity to appear here today to discuss this issue. I will be happy to answer any questions.

Mr. RAHALL. Thank you, gentlemen.

I have a number of questions I want to ask you. I will get into some detail on the size and weight issue, as well as your positions on a couple of our colleagues' bills that we heard about earlier, and the alcohol testing issue.

But before I get into all of those, I want to ask you a question, Tom, that has been bugging me for some time.

Intermodalism is the buzzword these days, and in ISTEA, we have tried to accommodate intermodalism; we see it as a way for the future. I want to see a greater degree of cooperation between the railroads and the trucking industry. I think that is certainly warranted in today's post-NAFTA atmosphere, in which transportation of goods and commodities is definitely going to increase to a degree where it seems like there will be plenty out there for everybody.

My basic craw or bug that I can't quite get out of my mind, and maybe you can help me, is—and I truly believe we must be open on this question; full accountability is another buzzword today—why the railroads, or some railroads or a few railroads or a minority of the railroads or one railroad or whatever it is, are so adamant in backing the Citizens for Reliable and Safe Highways.

Mr. DONOHUE. Well, Mr. Chairman, I thought the litany of going from many railroads to one railroad is very correct. As you know, I am on the President's Commission on Intermodalism and work with the CEOs of many of the railroads. And there has been a massive increase in intermodal freight brought to the railroads by

truckers. And the result of that is that there are very few railroads out supporting CRASH.

They did so originally years ago when they were afraid larger trucks were going to take away some of their freight. It was a form of marketing on their part. They were trying to limit what trucks could do through government regulation so that they would have a market benefit.

Now, in recent years, as we have done particularly well with Santa Fe and the CSX and UP and others, we have developed some very strong business relationships, and as you develop better business relationships, you don't have quite so much of this internecine feuding. But there are a couple—at least one, maybe two railroads, it is just their communication system is a little lower than others, they didn't get the word yet, and they certainly didn't pass it to the people walking around the halls of the Capitol.

I must tell from you my own personal perspective, I have a lot of respect for some of what some of the safety groups do, the commercial vehicle people, CVSA, the folks at Eno Foundation, the work that is done at Michigan State, the work that is done at DOT. It raises questions for us to deal with, it helps us improve our safety.

The program that you raised, CRASH, is a program based on press releases and fund-raising and not very much substance. And I am sorry that the railroads or at least one of them continue to support them.

We want to learn, we want to be safer, but we want to be honest. We don't want to be disingenuous with this committee or with any part of the industry or with the American people.

And I think you will see even that railroad is going to soften its tone, because their business is more and more becoming intermodal. It is more and more becoming dependent on an honorable relationship with their customers.

We don't ever want to operate an unsafe truck. But some of the things that have come out of that relationship between that railroad and that organization have been, to say the very least, distasteful and dishonorable.

Mr. RAHALL. I asked that question because I did want to get it on the record. It had been bugging me for some time.

Mr. DONOHUE. You might imagine it has been bugging me.

Mr. RAHALL. You heard Congressman Lipinski testify in support of his bill that would provide incentives for States to adopt covered load laws. Does ATA have a position on that bill?

Mr. DONOHUE. I am sure we have a position, but let me just express my view on it without digging into our policy book. There are a lot of loads that ought to be covered. You mentioned, Bob Stanley and representatives of the State Trucking Association have done a first-rate job.

On the other hand, Mr. Chairman, I would like you to visualize a few loads that don't have to be covered. If you have a flatbed truck and you are taking a tractor from one place to another, I am not sure you have to cover it. If you are in the car hauling business and you have 11 cars on a car-hauling vehicle, I don't think we can really put a cover over it.

So what I think is needed here is to take a look at what we are specifically talking about. Things that can easily fly out of the truck, my only personal view is, it is probably a good idea to cover them, and things that clearly are into the going to fly out of the truck and don't need covering because of how they are tied down and what the components are, it doesn't make sense to spend money covering them.

And so I think the bill gets about halfway there. And the rest of the way, I just think perhaps the authors haven't thought about some of the things we carry in trucks. I mean, I don't see us covering a car-hauling truck.

Mr. RAHALL. I don't know, sometimes I pass those things and they seem to be shaking quite a bit.

Mr. DONOHUE. They may be shaking, but covering them up with canvas isn't going to change much.

Mr. RAHALL. Let me ask you about Representative Morella's testimony. She and Representative Byrne have legislation to establish a minimum penalty and increase the maximum penalty for civil violations for Federal motor carrier safety regulations. Do you have a position on that legislation?

Mr. DONOHUE. You know, the DOT has authority right now, today, at the roadside to put a truck right out of service if it is unsafe. I think it is also important, while everybody is talking about the trucks that are pulled off the road, to understand how that is done by the inspectors. They don't just randomly pick every 9th truck. They use a look, smell and listen test. They pull off the road the trucks that look like they are in the worst condition, let's put it that way. So when they get a high percentage, it is a high percentage of the ones that look like they need inspecting.

I think there should be deterrence. I think there should be reasonable fines. Lord knows we are being fined, as I indicated in my testimony, in a very unreasonable way. But I would—I am interested enough in the spirit of what both of those Congressladies are talking about, to sit down and talk about that. We might be able to see a place where increased fines make sense.

But I would like them to understand that there is a lot of very high, unreasonable, badly placed fines now that are being used in a way that was never intended. I would like to know what the money is going to be used for.

Mr. RAHALL. You indicated in your testimony that the random drug testing rate should be 25 percent rather than 50 percent. That is the rate that is applicable to alcohol testing today; is that correct?

Mr. DONOHUE. I am going to guess. Fifty percent on the alcohol. Twenty-five percent is the DOT rate. In other words, what happens, Mr. Chairman, right now they are required by law to test Federal employees. At DOT they test 25 percent. But with us they are requiring the test at 50 percent. Deterrence is the issue here.

If every one of us were at any random time going to be exposed to a drug test, then we would be very careful about our behavior. The question of whether it is 25 percent of us at risk or 50 percent, the only real difference that makes there is a significant increase in our cost.

Now, the alcohol test, as proposed, would be affected, you know, if you didn't reach certain percentages, then the number would go up. I am not sure whether they are talking about preemployment or post-employment. I just tell you, when we get—drug testing is an understandable science. If you run a company like Mr. Collins did, and you drug test, you take a vial, you collect a sample, and you send it to a professional, and they do it.

Now, when we get into alcohol testing, and you remember, because you are from a State with a lot of small companies, every one of those companies is going to have to have a testing mechanism. It is going to have to be calibrated. People are going to have to be trained. And then they are going to have to pick the *n*th person in the 12 persons that work in that company, on a sort of regular basis, and test them for alcohol, and if they get somebody, they are going to be sued, because they are not trained enough, because the calibration didn't work.

The only way to simply do alcohol testing is to do it on the roadside. But you know why they don't want to do it on the roadside? Because the local law enforcement officials are telling them that they don't want to do it, because of all of the problems inherent in it. So what they say is, just let the companies do it. And it is going to be a mess.

Now, we have sued the DOT not to be contentious, but to get to the issue in the court that they have under the law the flexibility to make these adjustments. And if they get that flexibility in the court, and the Justice Department seems to think they might, I hope that working with this committee and with the Senate and with the DOT, we can go forward in alcohol testing, if that is what is desired, in a common sense way, instead of doing something that just costs us a fortune and creates more problems than we had in the first place.

We don't want anybody on the road that does drugs or alcohol. Let me give you two numbers. They did roadside alcohol and drug testing for a year, and the abuse was minuscule. According to a one-year study in alcohol testing, only two-tenths of 1 percent of the people tested, tested positive, gentlemen, at .02 and there is none of us that goes to a cocktail party in this town that can get and stand up to .02. So two-tenths of 1 percent at point .02.

Now, we have got to be careful not to spend a king's ransom to solve a problem of that size and not to create a bureaucratic system that creates more problems than what we have. Let's keep testing them at the roadside. Let's take some of this money, let's put it at the roadside, let's test people, and let's behave based on what the results are.

If the results stay down, we can act accordingly. If the results go up, we can accelerate the program.

Mr. RAHALL. You answered a number of follow-up questions I had, and I appreciate that.

Mr. DONOHUE. Thank you.

Mr. RAHALL. With respect to ABS, do I take it that NHTSA may be ignoring some lessons that may have been learned from past experience with ABS technology? Why do you suppose industry is meeting with this type of resistance?

Mr. DONOHUE. Anti-lock brakes are something we are all beginning to learn about. I encouraged Liz, my wife, to get out of the car she was in and get one with anti-lock brakes. They are safe. And the same thing we have done in cars with seat belts and air bags.

But what we want to be careful about—and we have a policy. We want to go to anti-lock brakes. It is going to make the trucks safer. What we want to be careful about is we want to be sure that the mechanics have the experience, that the product works, that we don't have a lot of failures. And all we are saying is, instead of dumping this thing in the lap of the trucking industry 12 months from now, it is do it on a phase-in basis over a four-year period of time, and at the end of four years everybody will have them on their new trucks, we will have tested which products we should buy.

And the big problem, Mr. Chairman, as you know, the law requires that standards produced by groups like NHTSA are performance standards. That is, they say the trucks will stop under these conditions. But it looks like NHTSA is trying to come out with a design standard, telling us what kind of an electrical system it should be, and how the brakes should be configured.

I sort of have more confidence in some of the truck manufacturers building these things. I would like to be able to have a competitive product that could be tested and measured and then buy whatever is best.

So what we are saying is, we need them, but to come out with one of these deals that says do it all tomorrow, is going to go right back to where we were with the 21 system. That is not the way to go. Let's put it in on a sequential basis and let's test them.

The fact that George Reagle was involved in that last mess will really help. But we need to get a reasonable standard here.

Mr. RAHALL. Let me ask you about our next panel, and what they are going to present to us. I am sure your good friend Joan Claybrook is going to be on that panel, along with others who are advancing a two-pronged argument in support of truck size and weight restrictions—big trucks are too dangerous, and they cause an undue amount of pavement and bridge damage.

Both of you touched upon the safety issue in your testimony, but I would appreciate it if you could elaborate just a bit more on the details of your contentions that accidents involving large trucks are not on the rise.

Mr. DONOHUE. Well, I am very reticent to get into a "figures lie and liars figure" argument. I would simply say that there is no question that when a big truck is involved in an accident, as the administrator says, the likelihood of physical damage and so on and of injury and death is higher. Our effort has been to drive down significantly the number of big truck accidents.

What the next panel did is they took all the trucks from about 65,000 pounds and up and they squeezed them all together in one category and set up their accident figures. I have figures from the DOT and from the University of Michigan—they are on a chart over here behind that other chart—that says that is not exactly the case. In fact, 80,000-pound trucks, the accidents are a little lower. But I don't know that that is the whole—I am not sure that is the

whole argument. I think the whole argument is this has to be looked at in its totality.

Do we want an unnecessary increase in the number of trucks on the road? Do we want to make policy based on unsubstantiated allegations as to what is happening on the road? Or do we want to look at the following subjects: congestion and how to handle it; intramodal business and how to develop it, and we need to have the larger trucks to move the heavy intermodal freight. Do we want to look at the economic reality of what we are facing here?

When you are running five million trucks a day and a couple million tractor trailers, you can find horror stories, Mr. Chairman. The fact of the matter is, we have got to run them tomorrow. We have got to deliver the freight. We have to support the jobs. And we are committed to doing it as safely as humanly possible. But stopping the world, stopping progress, stopping new technology, stopping improved clean air, is not the way to go.

And I respect people that come up and have a legitimate substantive argument. I want to learn from it. I think the arguments that are being made by the next panel really need a lot of scrutiny.

Mr. RAHALL. I disagree with the second prong of your attack, which is on the pavement damage issue. Any truck is going to cause more damage to the roads——

Mr. DONOHUE. It is not how much the truck weighs; it is how much weight is on the axle. And we have been very strict in this country about axle weights. And as a matter of fact, any discussion of never increasing the weight is based on never increasing the axle weight, just adding another axle. And I don't think there is any question that heavy trucks do more damage to highways than do very small cars.

I would call to the Chairman's attention the very significant percentage of the taxes that the very small number of trucks in relation to the rest of the traffic pays. It gets up there, when you add it all up, on a Federal, State and local basis, to about 50 percent of the taxes. And we are about 4 percent of the vehicles and about 13 and 14 percent of the vehicle miles.

So I respect and I believe it is a legitimate argument to argue about pavement damage and how we pay for it. And I am very willing to enter into those discussions. The question of the safety arguments ought to be looked at on the basis of 40 percent increase in miles driven, and 37 to 38 percent decrease in the number of fatalities, and those facts are not in question.

Mr. RAHALL. Mr. Ratliff.

Mr. RATLIFF. I think if you look at that same period of time, you see a significant increase in the number of 53-foot State clauses with trailers, which kind of belies the argument that bigger trailers cause accidents.

Mr. RAHALL. With regard to the question of whether the industry is paying its fair share of the damage caused—and I just want to conclude with this and note it for the record—GAO has issued a report to the committee dated June 7th of 1994 in which it found that based on a 1982 FHWA study, certain types of trucks paid only 50 cents for every dollar of road damage while other types of road traffic paid $1.30. However, GAO said this study should be updated before this issue could be properly considered.

Mr. DONOHUE. You would be interested to know, Mr. Chairman, the last three or four cost allocation studies done within the States, by individual States, showed a much different number and showed large trucks, particularly large trucks, were paying at or even greater amounts than their cost allocation, and there are places along the trucks size and weight places where they probably are not. As I said, we would be very happy to discuss the allegations there.

We have the problem of the peanut butter system. The State gets a certain amount of State and Federal money for roads, and instead of building the roads with another inch of pavement so you couldn't destroy them, they spread it as thin as they can like peanut butter in a big family. The end result is sometimes they don't last quite as long.

Mr. RAHALL. Thank you.

The gentleman from Georgia, Mr. Collins, is recognized.

Mr. COLLINS. I appreciate the comments of Mr. Donohue and Mr. Ratliff. I have had the pleasure of being with Mr. Donohue on several occasions and I know he represents the trucking industry very well.

You mentioned the commercial driver's license. One of the main purposes of the drivers license is to get bad drivers off the road, those who have violations, whether they be safety violations or whether they be dealing with drugs or alcohol.

What has actually been the effects of that? Has it accomplished what we set out to do?

Mr. DONOHUE. Mr. Collins, if I today left the trucking industry and went into retirement and if I could write one sentence about the things that happened in the last 10 years that made me proud, it is the single commercial driver's license.

Years ago interstate drivers had a pocketful of licenses. Today, you have got one, with some problems and exceptions, as you might expect. But it has gotten a large number of the bad drivers off the road. It has raised the professionalism of our drivers. It has improved their training. And it has saved thousands of lives. It is a great, great addition to this industry, and we ought to do everything we can to support it.

Mr. COLLINS. I think that may have something to do with the results of the chart over here.

Mr. DONOHUE. I think that and roadside inspections have done it.

Mr. COLLINS. The heavier the load the driver is pulling, his consciousness of safety—it has a lot to do with training. We have several training schools in the district I represent. They are putting out a good product, a good driver.

And speaking of schools, are there any vocational schools around the country that actually have truck driving courses?

Mr. DONOHUE. Yes, sir. There are a lot of those, and there are a lot of junior colleges as well. Our challenge, as you know, to drive in interstate commerce you have to be 21. You can drive within the intrastate and be younger than that. And right now, we have a real serious shortage of drivers. And it is being caused by a whole series of factors, including which they weren't born. We have a big dip

now. So we are looking for all sorts of ways to train potential new drivers.

And we are working with community colleges, with truck driving schools, and truck driving schools within companies. We are looking for nontraditional drivers. The great place to look is in the military, because that is the second highest number of people, after riflemen and infantrymen, comes truck driver. We are trying to get a lot of those folks. But it is a serious challenge for us right now.

One of the things that happened a couple of years ago, there was some fraud in the use of training money from the Federal Government, so the Federal Government sort of cut it all off. And we are very much in need of training money to train truck drivers. We can hire a couple of 100,000 people tomorrow in this industry if we could find qualified, ready-to-go-to-work drivers, and while we are trying to increase employment and knock down unemployment, we are all trying to work together on that. In fact, that is one thing we ought to talk about one day.

Mr. COLLINS. To clarify, you say "we." You mean "we" being the trucking industry?

Mr. DONOHUE. Yes, that is right.

Mr. COLLINS. I wanted to make sure "we" wasn't somebody else. But I am aware of the trucking industry's efforts to work with potential schools and junior colleges.

You mentioned the age of 18 intra, 21 inter. Isn't it true that most insurance carriers really like to see someone age 25 or older?

Mr. DONOHUE. It is a very difficult thing to go to your insurance carrier with somebody 21 and say, We just found him, let's put him to work. There are exceptions. If you have somebody 22 that has come out of two or three years in the military with an excellent record or somebody that has had other experience with a good driving record and is particularly mature, you can work it out. But insurance companies generally make it even more difficult.

But I don't—by the way, I don't argue with their effort to try—because they are making major contributions to trucking safety. What they are doing in inspections and what they are doing in training and so on has been very important.

So it is a give and take. We need more drivers but we need to do so sensibly, because, as the administrator said before, it is not the truck that is causing the accident, it is not—almost 90 percent of the accidents in this country are caused by human error.

That is why when I came here 10 years ago and found DOT was spending 90 percent of their money on trucks and 10 percent on human factors, that is when we all got together and did commercial driver's license and roadside inspections and things like that.

I think we are getting a balance. I think we are in a much better position to ensure increased safety than we were before.

Mr. COLLINS. We could encourage young people out of school, I am talking about out of high school, out of grade school, to go into the trucking industry if we had more proprietary schools or we offered more in our public schools for driving. And we could let that driver enter the trucking industry at a young age and have the approval of the trucking industry itself. I don't think the insurance industry has added quite as much to highway safety.

Thank you, Mr. Chairman.

Mr. RAHALL. The gentleman from North Carolina, Mr. Valentine.

Mr. VALENTINE. Thank you, Mr. Chairman.

Mr. Donohue, when the Chairman was talking about the participation of the American railroads and safety groups and the support of safety groups, were you all talking about the Citizens for Reliable and Safe Highways?

Mr. DONOHUE. I think that is what we are talking about.

Mr. VALENTINE. Don't you know? Is that what you are talking about?

Mr. DONOHUE. Yes, that is right.

Mr. VALENTINE. Some of the propositions of the Citizens for Reliable and Safe Highways that over the years that you have found so—what is it that they want you to do that you don't want to do?

Mr. DONOHUE. The first thing I found offensive is the matter the Chairman raised, that this organization was initially funded——

Mr. VALENTINE. Well, aside from that. There has been a rivalry between the railroads and trucks in this country for years and years and outside from who financed them—let me put it to you this way. They have for many years espoused elimination of radar detectors, haven't they?

Mr. DONOHUE. Yes, and we got them eliminated.

Mr. VALENTINE. You got them eliminated?

Mr. DONOHUE. Yes, sir, that is right. We got the legislation——

Mr. VALENTINE. I understand they are eliminated, but before they were eliminated, to the extent that they are now, was it a policy of your association to advise trucking companies to issue rules that prohibited them in the cabs of trucks?

Mr. DONOHUE. Our association advocated the elimination of radar detectors for some time. The biggest problem was getting that through the DOT and the Congress. And we have advocated that for a long time.

Mr. VALENTINE. The Congress didn't have to pass a law banning them for trucking companies. Do you know of any trucking company in the country that as a matter of policy said you——

Mr. DONOHUE. Yes, sir, I know numerous trucking companies in the country that if you have a radar detector, and this is before the new regulation and law, if you have a radar detector in your truck you would not be—what is your policy?

Mr. RATLIFF. That was true of Frito-Lay from day one. We have never allowed radar detectors in our company trucks.

Mr. VALENTINE. It was a matter of policy? Did your company vocally endorse the banning of these detectors?

Mr. RATLIFF. Yes, we did.

Mr. VALENTINE. In what way? Writing a letter to your Congressman?

Mr. RATLIFF. Over-the-road drivers could not have a radar detector in the truck, and it was dismissal if they were found with it.

Mr. VALENTINE. Aside from radar detectors, what are some of the other things that this Citizens for Reliable and Safe Highways, what else did they suggest that you——

Mr. DONOHUE. I could give you a very specific example that is very current. CRASH is in favor of a 16-inch underride protection device on the back of trailers. They periodically have a press con-

ference about that. Their argument is that the government has for a long time ignored the proper or the best type of underride device.

The fact is that the government has studied this at great length and we have all encouraged them to come out with a finding. And there are a couple of facts that are interesting. First of all, a 16-inch underride is very dangerous, because it catches on every railroad track, it catches on bumps in the road, it catches on snow, it catches on all matter of problems. It is very, very dangerous.

The arguments by CRASH really don't hold a lot of water. They are very sad cases where they bring out somebody that has been injured and disfigured. But usually that is somebody that is driven into the back of a truck at 40 miles an hour. We don't generally back our trucks down the road trying to run into cars. There is no underride that is going to handle that sort of a problem.

Our concern was not with the debate, because we will use any legitimate underride system that works, but it is with the sensationalism and the way that it was handled. You know, as a fundraising device. And it angered me.

Mr. VALENTINE. What about speed? Did they advocate——

Mr. DONOHUE. I don't know what their advocations are on speed. I know what ours are. I was one of the people who wanted to keep the 55-mile-an-hour speed limit. We are the people that advocated our companies putting governors on our trucks so they couldn't drive more than 57. So we have no problem with anybody advocating reduced speed.

Mr. VALENTINE. What about weight limitations? This thing you just mentioned, is this the only problem you have got with these folks?

Mr. DONOHUE. I think the problem I have with these folks is not based only on the substance of their arguments. It is based on the approach. It is based on the deception. It is based on a lack of integrity.

Mr. VALENTINE. Can you cite an example of a lack of integrity, another example? These are pretty serious charges.

Mr. DONOHUE. Yes, sir, they are.

Mr. VALENTINE. For a bunch of people that have the respect of a lot of people in and outside of Congress. Give me some examples. You have been pretty strong with these accusations.

Mr. DONOHUE. I think to cube up the numbers the way they were cubed up is doctoring the numbers. I understand that folks don't like anybody to challenge safety or consumer groups, self-proclaimed. But, you know, every now and then it is time to stop and say, What is behind this, and what are they really after, and what is really the substantive nature, and what is going to be the public good?

And I think it is fair to say for a long time we have been very measured and tried to be thoughtful in our response. But sometimes when you represent 7.5 million hard-working people, when you represent 200,000 companies that are out there trying to do a fair job every day, every now and then you get your Irish up a little bit, and my Irish is up.

Mr. VALENTINE. Besides getting your Irish up, can you give me examples what you are talking about? You made charges, one, two, three. What is it——

Mr. DONOHUE. One is the numbers——

Mr. VALENTINE. In what way? What is wrong with the numbers?

Mr. DONOHUE. The numbers have been changed and cubed up to give an impression that it is different than the facts.

Mr. VALENTINE. How so? Decreased, increased? Are they fraudulent numbers?

Mr. DONOHUE. That is your word.

Mr. VALENTINE. Well, what is your word?

Mr. DONOHUE. My word is they are deceiving.

Mr. VALENTINE. In what way?

Mr. DONOHUE. In that they give a story that is different than the fact.

Mr. VALENTINE. Do you advocate triple trailers?

Mr. DONOHUE. I advocate triple trailers where they are used in a very safe and appropriate road system. I do not advocate the expansion of triple trailers to the total nation, because there are a lot of places where they don't make sense.

Mr. VALENTINE. How about four trailers?

Mr. DONOHUE. I have never seen that except in Australia.

Mr. VALENTINE. Well, what is your opinion about it? You say you want three. What about four?

Mr. DONOHUE. I have no interest in four trailers.

Mr. VALENTINE. Does this group oppose the double trailers? Is that one of the problems that you have with them?

Mr. DONOHUE. Well, there are a number of different types of double trailers. There are two pups, they call them, which is 28-foot trailers, and they don't oppose those. What they oppose are the trailers that are used in the far West. They are called—they are Double 48s. They use them in very few places in this country. Traditionally in places in the far—out West. I am not talking about California. I am talking in Utah and Wyoming and places like that.

Mr. VALENTINE. I trust—Mr. Chairman, I thank you for your indulgence. I don't have any special interest in it one way or another. I do know—I believe in all my heart there is a place for the trucking industry. My God, most of what we have was brought by trucks. I think there is also a place for citizens to look over the shoulders of the industry. And I trust that you will stay here and listen to what these people will say in response to your questions. They have had to listen to you.

Mr. DONOHUE. I would like very much to do that. I am going to do a television show on worker's compensation but I will listen to the tape of it and I will have some people here.

Mr. VALENTINE. Thank you, Mr. Chairman.

Mr. RAHALL. Thank you, Joe, for your testimony.

The subcommittee will now hear from a panel consisting of Ms. Joan Claybrook, President, Public Citizen, testifying on behalf of Citizens for Reliable and Safe Highways, Washington, D.C., and Cochair for Citizens for Reliable and Safe Highways.

Also, Dr. Gerald Donaldson, Senior Research Director, Advocates for Highway and Auto Safety, Washington, D.C.

Mr. Chuck Hurley, Senior Vice President of Communications, Insurance Institute for Highway Safety.

And Mr. Darryl Wyland, Senior Vice President for Public and Government Relations, American Automobile Association.

TESTIMONY OF JOAN CLAYBROOK, PRESIDENT, PUBLIC CITIZEN, AND CO-CHAIR FOR CITIZENS FOR RELIABLE AND SAFE HIGHWAYS (CRASH); GERALD A. DONALDSON, PH.D., SENIOR RESEARCH DIRECTOR, ADVOCATES FOR HIGHWAY AND AUTO SAFETY; CHARLES A. HURLEY, SENIOR VICE PRESIDENT OF COMMUNICATIONS, INSURANCE INSTITUTE FOR HIGHWAY SAFETY, ACCOMPANIED BY ELISA BRAVER, SENIOR RESEARCHER, TRUCK SAFETY ISSUES; AND DARRYL L. WYLAND, SENIOR VICE PRESIDENT FOR PUBLIC AND GOVERNMENT RELATIONS, AMERICAN AUTOMOBILE ASSOCIATION

Ms. CLAYBROOK. Thank you, Mr. Chairman. I appreciate the opportunity to testify today and correct the disingenuousness and misimpression of Mr. Donohue. Being called disingenuous by Mr. Donohue is like being called ugly by a frog.

I would like to first of all make several statements about CRASH and the people who support our position.

First, it is an organization that has 30,000 activists nationwide who work with us. We have a 17-member board which includes Robert Vagley, President of the American Insurance Association; John S. Hassel, the former administrator of the Federal Highway Administration; and James Arena, the Chair of the National Association of Governor's Highway Safety Representatives. And I will submit for the record a list of the other board members.

We also have a number of supporters—and the list is being held up for you now—a large number of organizations of great repute that support the position that we take on the issue of larger and heavier trucks. And this is quite a substantial list of organizations.

Mr. VALENTINE. Mr. Chairman, excuse me. My eyes are usually pretty good but I can't see that cotton-picking thing. Do you have a smaller copy of this?

Ms. CLAYBROOK. Why don't we just let you have this one.

I am sorry. We had difficulty getting the chart blown up to the size that we would have liked.

We, of course, are here today to testify in favor of the bill by Mr. Oberstar, H.R. 4496, and we are pleased to be able to do that for a number of reasons. This legislation will deal with two major issues that we face on our highways today. Number one, that larger trucks are much less safe, and number two, that longer trucks are less safe.

For the past 50 years there has been a dangerous pattern of increasing truck lengths and weights as part of the trucking industry has over the years successfully exploited the ambiguities in our current laws and applied pressure on the States to approve heavier and longer trucks on State highways that are not permitted on the Federal interstates. In virtually every instance in which it has succeeded in obtaining these higher length limits, it has followed with pressure to raise weight limits and so on, back and forth.

Now, I would like to deal with several of the numbers that Mr. Donohue presented to the committee. One was a chart showing a 33 percent, I believe, reduction in light truck and heavy truck fatality rates. I would like to point out that that was dealing with trucks for 10,000 pounds all the way up to whatever the top number in any State that is allowed.

And when you look—we were presented with this by Mr. Donohue at a previous hearing on the Senate side two years ago—when you look at just heavy trucks, that number is incorrect. And so I think he was sort of misleading to the committee.

The number for the heavy trucks, I haven't looked at the most recent figures, but at that time, 1992, I believe that is where his chart went, the number of heavy truck fatalities was fairly constant and did not have the significant reduction that he showed for all trucks above 10,000 pounds.

We are focused here today on heavy trucks. Mr. Donohue knows that. I think it was very misleading of him to present a chart that didn't make that clear.

Second, he had another chart which is at the beginning of his testimony, in which he refuted the figures that we have presented to the committee. First of all, this is just to show that you trailer lengths have grown from 1946 to 1994. So that is just an example of what has been happening. We have certainly had a significant increase.

This is the chart I want to discuss for just a minute that Mr. Donohue was purporting to challenge. This is based on a study by the University of Michigan Transportation Research Institute. Mr. Donohue's chart purported to show that the heavier the truck, the lower the injury and accident—the fatality rates. And in fact what he did was in his chart to combine trucks on single-lane highways and dual-lane highways and all different types of highways. Of course, on the single-lane highways you are more likely to have lighter trucks and you have a higher fatality rate. And so when you combine all different types of highways, which the people who did this research said absolutely you cannot do, it is very misleading. Then you show that some of the lighter trucks which are on the single-lane highways do have a higher fatality rate.

But when you separate them by type of highway, the heavier trucks do this. This is directly from the University of Michigan. And the heavier they get, the more the fatal crashes increase.

And so that is the second thing that was misleading about what Mr. Donohue presented to you today. And he suggests that because we didn't divide it by every single weight category, by 5,000 pounds each, that we were being misleading. But we could certainly do that for the committee if you would like to see it in smaller gradations, but using different types of highways to present the data, which the researchers who did the study said you must do, produces these results.

I might also comment that the American Trucking Association, while they talk safety, don't always act safety. I think what probably irritates Mr. Donohue the most about CRASH is the fact that what he is interested in is using research for his own purposes that presents it in his own way. What is really frustrating to him is when a citizen group is on the spot, an advocate, they are able to talk with the committee Members just as he is, able to testify before the committee just as he is, and is able to refute what he has to say.

The committee asked Mr. Donohue to serve on a panel with me so that we could have a back and forth on these issues. Mr. Donohue refused.

I think that that is a small indication of what really is at the bottom line of his irritation, which is that he doesn't really want to have a debate on the merits and on the facts. He wants to make his own presentation and leave.

I do appreciate, Mr. Valentine, your asking him to listen to our testimony. The fact is that the American Trucking Association has opposed the vehicle underride guard, which we are proponents of. We can argue over the particulars of any proposal.

The proposal they favor is one at 22 inches high which is too high to catch the full force for most small cars on the highway. They don't favor it being energy absorbing, which we do, and they don't want it to apply to most trucks on the highway, which we do.

The current proposal has it apply to only 80,000 of the 500,000 rigs that come out, tractors and trailers every year. They have also opposed the anti-lock brake for years.

I will submit for the record a list of their statements to the docket of the National Highway Traffic Safety Administration of their opposition to the anti-lock brakes over the years.

They have also opposed reducing the hours of service. The hours of service for truck drivers, which is not a vehicle issue but a human issue, are inhumane in our view—70 hours a week—up to 70 hours a week. No other workers in America are subjected to those hours of service. And there was even a proposal which they favored which would have increased it up to 100 hours of service a week. So—I mean, eight days, not a week, eight days. So we will submit some documents for the record on that.

And also I would like to submit if I could, Mr. Chairman, something called CRASH Facts, which lays out some of the factual information which apparently also irritates Mr. Donohue.

[The information received follows:]

CRASH CITIZENS FOR RELIABLE AND SAFE HIGHWAYS

CRASHFACTS: TRUCKS AND THE NATIONAL HIGHWAY SYSTEM

Infrastructure Damage and Costs:

Highway and Bridge Costs

• The existing backlog of highway and bridge deficiencies is **$212 billion. This backlog increased $7 billion in just the four years from 1989 to 1993.** U.S. DOT, the Status of the Nation's Highways, Bridges, and Transit: Conditions and Performance. 1993.

• **Forty-two percent of the highway repair backlog consists of pavement repairs alone.** Id.

• U.S. needs **$60 billion each year** just to improve roads and bridges above minimum acceptable standards. Our country needs an additional **$7 billion each year** to meet additional emerging urban and suburban road and bridge needs. This would be in addition to the current $78 billion spent in 1991 from all funding sources on roads and bridges. Id.

• Estimates just to improve the arterial highways on the National Highway System alone over the rest of the century is conservatively placed at **$10 billion to $15 billion each year.** ISTEA obligational funding levels will provide **only $16 to $20 billion of Federal funds each year over the life of the bill** for all Federally assisted highways and bridges. 1991 ISTEA.

• Funding for highways and bridges have continuously declined in real dollars and the Federal share of funding capital improvements has suffered a parallel decline: in 1980 the Federal share was 56 percent, but only 41% in 1991. "Status of the Nation's Highways . . ., op. cit. The states have not been able to make up the shortfall in funding formerly supplied by the Federal government.

• Overall highway performance either declined or only stayed even over the past 13 years. Id.

• Of the 575,000 Federally-assisted bridges in the U.S., **twenty percent are rated as structurally deficient.** Id.

• More than **40,000 bridges on non-Interstate arterial highways are rated as structurally deficient or functionally obsolete.** Id. Most of these deficient and obsolete bridges will form part of the new National Highway System. Preliminary State Designations of National Highway System Routes, FHWA, 1990.

CITIZENS FOR RELIABLE AND SAFE HIGHWAYS
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Truck Damage of Highways and Bridges

- A single trip over a given road segment by a fully laden 5-axle tractor trailer with 18,000 pound single axles produces the same pavement damage as 9,600 automobiles. AASHO Road Test Axle Load Equivalences, The AASHO Road Test, Report 5, Highway Research Board, Special Report 61E, 1962. Some states have far higher axle weights, especially on lower-class highways.

- If a standard 80,000 pound tractor-trailer increases its gross weight only 5,000 pounds to 85,000 pounds gross weight, **pavement damage increases by 130 percent.** Raising the gross weight of this rig to 100,000 pounds **increases pavement damage by 261%.** B.F. McCullough and E.D. Moody, Analysis of Relative Pavement Damage for Selected Truck Axle Weight Proposals in the State of West Virginia, 1994.

- Pavement damage measured by the Equivalent Single Axle Load (ESAL) factor per heavy vehicle, rises as **the 4th power** of axle weights on pavement. "AASHO Road Test," op. cit.

- Heavy trucks comprise **92 percent** of total axle loads on the rural Interstate system alone. ESALs by heavy trucks on the rural Interstate system have increased by a rate of **over 9 percent a year** since 1970. Actual Truck Loadings on Highways in the United States and Their Effect on Pavement Design, FHWA, 1988.

- In addition to excessive axle and gross weight limits in some states, the Federal government estimates that, overall, more than one-third of all heavy trucks on the road at any time are illegally above Federal and state weight limits. Overweight Trucks - The Violation Adjudication Process, FHWA, July 1985.

- Transport cost savings from improved truck productivity overwhelm associated costs of increased highway and bridge destruction and of truck accident costs. Many bridges and highway pavements would have to be **considerably strengthened** or **rebuilt** to accommodate heavier and larger trucks. An Investigation of Truck Size and Weight Limits: Final Report, U.S. DOT, August 1981.

- The current 23 U.S.C. § 127 bridge formula B allows only 5 percent overstress of HS-20 Interstate bridges, but 30 percent overstress of H-15 non-Interstate bridges that form the major part of the National Highway System. Bridge Overstress Criteria: Final Report, Federal Highway Administration: City College of New York, March 1992.

- Current nonuniformity among the states with regard to truck weights, especially on non-Interstate highways, increases the economic advantage to motor carriers in several states while causing disproportionate costs in their highway programs and to

competing modes of transportation. Truck Size and Weight User Fee Policy Analysis Study, Federal Highway Administration: Sydec, Inc., March 1991.

• The motor carrier industry regards the National Highway System as the priority commercial network for truck transport of freight. The Economic Importance of the National Highway System, Trucking Research Institute: Apogee Research, Inc., February 1994.

• Although the National Highway System would comprise **only 4 percent** of our nation's surface miles of roads and bridges, it would carry **three-quarters of all commercial truck traffic.** Id.

• Domestic freight tonnage, now at 2.9 billion tons of annual goods movements, will increase **30 percent** by the year 2000, vehicle-miles-travelled will increase **31 percent**, and the number of freight-carrying trucks will increase by over 8 percent to **3 million** commercial vehicles. Testimony of Thomas Donohue, President, American Trucking Associations, on the National Highway System, March 3, 1994.

• As a class, combination trucks registered above 75,000 pounds gross weight pay only **two-thirds** of their cost responsibility. Alternatives to Tax on Use of Heavy Trucks, FHWA, January 1984.

• However, cost allocation studies typically obscure individual vehicle deficits by embedding them within very broad user classes. It is likely that high-annual-mileage, very heavy axle-load vehicles pay less than a third of their individual cost responsibilities. Unfortunately, both the Federal government and a number of states have encouraged an excessive shift to heavy-axle weight commercial vehicles. Managing the Use of Highway Pavements, FHWA, n.d.

• Similarly, according to various studies conducted by the FHWA and university consultants, the heaviest overweight combinations, especially multi-trailer rigs with single axles, can be calculated to pay only about **one-fifth** of their cost responsibility. See, e.g., Heavy Vehicle Cost Responsibility, FHWA, Office of Policy Development, 1987.

• The number of divisible multi-trip permits for overweight trucks has increased **by more than 300 percent** since the Symms amendment to 23 U.S.C. § 127 in 1982. Overweight Vehicles - Penalties and Permits, FHWA, 1993.

Truck Highway Safety:

Extra-Long Trucks

• All states but one now allow 53-foot long semi-trailers on at least the Interstate system. However, in 1987 the American Association of State Highway and Transportation Officials (AASHTO) adopted a policy calling for national semi-trailer lengths of **no more than 48 feet** in order to be compatible with existing highway design and safety needs. Guide for Maximum Dimensions and Weights of Motor Vehicle and for the Operation of Nondivisible Load Oversize and Overweight Vehicles, AASHTO, April 1987.

• In 1983, a survey of the states by AASHTO showed that only about half of existing Interstate ramps could accommodate the offtracking of a combination truck with only a **48-foot long semi-trailer.**

• By 1994, 11 states allowed trailers 57 feet or longer. Of these, four states allow trailers 59.5 feet long and one state allows trailers 60 feet long. *CRASH Survey, 1994.*

• A combination truck with one 60-foot long semi-trailer is about **80 feet long.** An average mid-sized car is about **15 feet long.** *CRASH Survey, 1994.*

• The offtracking and rear-end swing-out of extra-long trailers cause these big rigs to turn into oncoming cars, roll over sidewalks, run off freeway ramps and highway curves, and increase the chances of cars crashing under the trailers. See, e.g., Symposium on Geometric Design for Large Trucks, Transportation Research Record 1052, 1986.

Overweight Big Trucks

• Claims that lowering or freezing truck weights result in more trucks on the road which, in turn, increases the chances for more accidents, are not true. **Truck accident involvement rates rise steadily with increased weights.** See, e.g., Statistics on Heavy Truck Accidents, National Highway Traffic Safety Administration (NHTSA), July 12, 1976.

• Truck crash rate studies show repeatedly that heavier trucks are more dangerous and cause more deaths. Sixty-five thousand to 80,000 pound combination trucks have **more than two and one-half times** the fatal crash rate of tractor semi-trailers weighing between 35,000 and 50,000 pounds. See, e.g., K.L. Campbell et al., Analysis of Accident Rates of Heavy-Duty Vehicles, University of Michigan Transportation Research Institute, 1988.

• The heavier the truck, the greater its chances of rolling over in a crash. Even the slight increase in Federal law in 1974 of

truck gross weights from 73,280 to 80,000 pounds resulted in a **44 percent** increase in rollovers by fully loaded rigs. R.D. Ervin et al., Influence of Size and Weight Variables on the Stability and Control Properties of Heavy Trucks, University of Michigan Transportation Research Institute, March 1983.

- Heavier trucks have **more downhill brake failures and more "runaway" crashes.** P.S. Fancher, Retarders for Heavy Vehicles: Evaluation of Performance Characteristics and In-Service Costs, University of Michigan Highway Safety Research Institute, February 1981.

- Extra-heavy trucks take **more time and distance to merge** into traffic from on ramps than lighter trucks. Most merging ramps and lanes even on the Interstate System are already far too short for safe merging maneuvers by even 80,000 pound trucks. Truck Weight Limits, Transportation Research Board Special Report 225, 1990.

- Extra-heavy trucks take **much longer to brake** than lighter trucks. R.D. Ervin, et al., "Influence of Size and Weight . . .," op. cit.

- Fatal crash rates for heavier tractor-trailers are **consistently higher** than for lighter trucks in rear-end collisions. P.S. Fancher, Turner Truck Handling and Stability Properties Affecting Safety, University of Michigan Transportation Research Institute, 1989.

- Extra-heavy trucks go **slower on upgrades and faster on downgrades.** Trucks which travel 15 mph or more below the prevailing speed of other vehicles have crash rates **9 times** higher than trucks that travel the same speed as other traffic. C.M. Walton and O. Gericke, An Assessment of Changes in Truck Dimensions on Highway Geometric Design Principles and Practices, University of Texas Center for Transportation Research, 1981.

Ms. CLAYBROOK. I know your time is limited, so let me just say that our concern about the size and weight of trucks is that they have to stop someplace, and it seems to us that we have reached those limits in terms of the capacity of the highway to deal with the longer vehicles, which over half of the interstate highways as they now exist can't accommodate 48-foot rigs, much less rigs that are longer than that, and if we don't confront this issue, then we are going to have highways that are going to be obsolete before they are even built, and the cost of building highways is enormous. It seems to me that the highway builders ought to have some standards for building those highways, and we already exceed them with what we have now in terms of trucks on the highway.

In terms of intermodalism the same is true. If you keep changing your equipment, it is very expensive for most people who want to deal in intermodal traffic, and so there ought to be some rules of the road that deal with these issues, and without this kind of legislation, there will not be.

In terms of safety, we are extremely concerned and some of the other people here testifying will testify about that, but I would say that the University of Michigan which is considered one of the premier researchers in this area has said that when the weight increased from 73,000 to 80,000 pounds in 1974, there was a 44 percent increase in roll-over rate of fully loaded trucks, and that was an increase of less than 7,000 pounds. You can tell from the items in Mr. Donohue's testimony that what he is really after is to increase the weight to 88,000 pounds and above.

Second, the heavier trucks are more involved in runaway crashes because of brake failures on steep grades.

Third, more weight means that it takes longer for the truck to stop in traffic, and trucks and cars, as you know, are completely mixed in traffic, so it is very, very dangerous, and even worse when the trucks are lightly loaded.

Fourth, that the trucks that carry heavier loads are more likely to jackknife.

Fifth, heavier trucks are very incompatible with traffic in terms of upgrades and entry into the highways themselves, because of acceleration rates, and of course also when they have the longer lengths, the problems of the swinging out into lanes, other lanes of traffic are very, very dangerous, and also in terms of merging.

The other major issue besides safety that we have raised is that of the impact on the highway. You are making here an enormous investment by the Federal Government of some $20 million plus, on the National Highway System. We believe that the taxpayers who pay their taxes faithfully every single year are going to be wasting their money if we allow these heavier trucks to continue and to grow.

I mean, we are agreeing to freeze it. We think that is a very reasonable proposal, to freeze the weight, and if it is not, then you are going to have even more degradation at terrific cost. And the AASHTO in the 1960s did an estimate which I think is conservative for today's vehicles, that one truck does the same damage as 9,600 cars.

We estimate that based on the size of trucks that are higher than they were then, and also cars that are smaller, it is probably

more like a ratio of 1 to 18 or 19,000, so it is a very severe level of damage. And when you get to bridges and the backlog of unrepaired bridges in this country and you are talking about not controlling the weights of these vehicles, we can only expect additional damage to those bridges and a huge additional cost to the public.

So, Mr. Chairman, I do appreciate the opportunity to testify. I regret that Mr. Donohue was unwilling to participate in a panel where we would have dealt with the facts and the issues as opposed to dealing with name calling.

I have never engaged in that with regard to Mr. Donohue, and except in my opening statement, which I felt required a minimum of my Irish being up, and I do hope that in the future we are able to conduct a discussion on the facts and the issues and allow us to debate each other on those matters.

Thank you.

Mr. RAHALL. Mr. Donaldson.

Mr. DONALDSON. Thank you, Mr. Chairman.

My statement is prepared, very short, clearly less than red bulb time, so I am going to read almost all of it into the record.

We thank you, Mr. Chairman, for providing Advocates for Highway and Auto Safety with the opportunity of testifying on truck safety issues before the Subcommittee on Surface Transportation. Let me state here at the start that truck safety would be advanced both for the trucking industry as well as for the traveling public by the enactment of H.R. 4496. Advocates strongly supports the truck safety legislation that is being championed by Congressman James Oberstar in the Safe Transportation and Infrastructure Preservation Act of 1994.

We are here today to ask you, this committee, this Congress to act strongly to put an end to the accelerating increases in truck sizes and weights. Congressman Oberstar's legislation is an opportunity for Congress to place appropriate boundaries to the lengths and weights of big trucks. These limits are necessary for ensuring a rational approach to highway traffic safety and to conserve the enormous investment we have made and will make in upgrading our highways and bridges.

In the last 13 years since the passage of the 1982 Surface Transportation Assistance Act, a surge in the sizes and weights of big trucks has occurred which has overwhelmed both the safety design and the physical strength of our highway and street network. Although Congress imposed national uniformity on the lengths and widths of trailers in 1982, it set no upper bounds for lengths.

Semi-trailers, in particular, have grown to over 60 feet in length. These giants are unable to get on and off most of the elevated interstate and expressway ramps throughout the United States. Trailers over 53 feet in length cannot safely negotiate thousands of curves and intersections throughout the States.

And the temptation, of course, is for the available increase in cargo volume of longer trailers then to pull up axle or gross weight limits. Furthermore, in State after State, decisions on truck lengths and cargo weights have become nothing more than a spoils system, with any given State subject to the appeal that an adjacent State's

more generous limits place it at an unenviable economic disadvantage.

These alternating waves of length and weight increases have been exaggerated by the States' ability to provide themselves with what they view as their grandfather rights to run longer, heavier rigs on their interstate highways. Along with suspect permitting of divisible loads as nondivisible, it is not too strong to say that the nominal weight limits of existing Federal law in 23 United States Code, Section 127, are honored mostly in the breach.

It is clear, Mr. Chairman, that the excessive weights of current trucks are destroying our roads and bridges far faster than we can marshal the funds to offset, much less make headway on, the staggering backlog of needs. And overweight, longer trucks resulting from generous increases in basic weight limits or from exemptions and cheap, easy permits are incompatible with the most basic design features of our highways and are causing more and more severe crashes.

I remember well Chairman Norman Mineta's remark during the hearings on the National Highway System that our prospective infrastructure funding levels on the best expectations fall woefully short of the multi-modal investment scenarios of both Japan and Germany over the next several years. Where each of these countries plans multi-trillion dollar investments over the next several years for much smaller networks of highways and bridges, the U.S. can muster only about $400 billion for almost 4 million miles of roads.

The excessive damage that overweight trucks inflict on our roads and bridges also undermine our efforts at improving the safety designs of these facilities. Trust fund dollars diverted to play catch-up with the cycle of bridge deck and pavement destruction are dollars subtracted from providing all highway users with wider lanes and shoulders, smoother alignment, and more efficient safety hardware and effective traffic control devices.

So Congress must act affirmatively and pass Congressman Oberstar's bill. Only reasonable Federal control over the sizes and weights of commercial vehicles can put an end to the discordant trucking policies that have grown worse each year between the States.

We must end the ability of the States to provide themselves with interpretations of how big and how heavy trucks can be on the federally funded National Highway System. We must allow our structural designs for highways and bridges and our highway safety features to catch up to the demands of the trucks already on our roads.

Finally, the pressure to raise the ante in the U.S. on truck size and weight has now grown to international proportions. The pressure of Mexico and Canada in North American Free Trade Agreement truck size and weight negotiations will supply a trucking industry argument for increasing commercial vehicle axle and gross weight ceilings in Federal law.

Mr. Chairman, just to provide an asterisk at the bottom of this page, as an impromptu remark, on something that was made abundantly clear in Mr. Donohue's written testimony. I think it is patently clear in his testimony that he intends to use the leverage of

the trilateral negotiations of NAFTA to use the higher axle and gross weight limits in Mexico and Canada to push for higher weights in the United States; and, indeed, if you will notice at the very same place in his testimony where he mentions this, he calls for the consideration of a six-axle truck, that means a tridem axle, a three-axle grouping at the rear of the truck.

On the present tradition of how we would use a three-axle group, which some States have used, that would be a 42,000- to 44,000-pound axle. So you are talking about a truck that weighs between 90,000 and 100,000 pounds, and would certainly damage our bridges at an even more accelerated pace than heavy vehicles already are doing.

We cannot allow truck sizes and weights to continue to move well beyond the margins of our highway design envelope. If we fail to act quickly and vigorously to impose a reasonable discipline on truck size and weight by implementing a freeze on further increases, we will pay even more in the near term with wasted highway investment and with wasted lives.

With regard, again, Mr. Chairman, to the basic tenor of the testimony that was provided earlier by Mr. Slater, the Federal Highway Administrator, I am very fearful about the diversion of the necessity to act quickly by this Congress to deal with truck size and weight controls, because if we siphon off the energy and the need to move quickly into a study effort, a study effort that would be ruled basically by a self-created agency calendar, then I am afraid that one of the really serious byproducts is if the States that have been more generous with the use of the Symms amendment—and notwithstanding Mr. Oliver's remarks from the Federal Highway Administration, I can instance States which have engaged in very abusive exploitation of the Symms amendment.

If the States believe that there is going to be in the offing even the potential for having the legislative kabosh come down after the study effort, I believe what we are going to get as a result is an explosion in size and weight increases in some of these States. They will exploit in the short term the ability to use their own self-interpretation of their grandfather rights under the Symms amendment and we will get even bigger, longer, and heavier trucks on our roads and even more generous and indulgent permitting practices than we have to suffer with right now.

Thank you for the opportunity to testify, Mr. Chairman. I am happy to respond to any questions you might have.

Mr. RAHALL. Thank you, Dr. Donaldson.

Before we go on to the next witness, the subcommittee would love to have that list of abusers of the Symms amendment that you mentioned, if you have it.

Mr. DONALDSON. I would be glad to supply some examples.

Mr. RAHALL. We would appreciate having that for the record.

Mr. Hurley.

Mr. HURLEY. Thank you, Mr. Chairman.

I am Chuck Hurley, Senior Vice President for Communications at the Insurance Institute for Highway Safety. With me is Institute epidemiologist Elisa Braver, our senior researcher on truck safety issues.

Our statement also cites the University of Michigan Transportation Research Institute study which compared crash rates for tractor trailers in various weight categories. After adjusting for travel patterns, the researchers found that trucks weighing 65,000 pounds or more were overinvolved in crashes by about 40 percent, compared with trucks weighing less.

Specific findings according to truck weight vary somewhat but the study's implication is clear: Increasing permissible truck weights and axle load may adversely affect motor vehicle safety by increasing crashes.

The University of Michigan researchers also tried to assess the implications of various truck configurations. Their main finding is that changing truck length and width is complicated and must be undertaken with care, a configuration change that improves one safety problem can significantly worsen another.

Problems introduced by lengthening trucks are different from those associated with increasing truck weight. Longer trailers are more likely than shorter ones to fail to follow the path of tractors. Called off-tracking, the problem occurs when trucks turn, and is a special problem at intersections where traffic is heavy.

The main problem with allowing heavier trucks is that increasing axle loads significantly increases the likelihood that rigs will roll during turns. Increasing truck weight can also degrade driver's ability to steer around obstacles in the roadway.

Once again, as has been mentioned, the likelihood of rollover increase is alarming because tractor trailers already roll over more easily than other vehicles on the road, and the last thing we need are modifications that might worsen this problem. Increase in the number of axles on truck rigs won't lessen the safety concerns associated with allowing more vehicle weight. The problem is like adding weight, adding axles reduces drivers' ability to steer around obstacles in the roadway and adding axles also degrades, in the words of the study, "significantly degrades, braking efficiencies and impedes tight turn maneuvers."

According to researchers at the University of Michigan, quote: "The consequences of small degradations in poor performance can be crucial." The trick is to try to avoid very poor performance in any category of intrinsic safety. The simple process of allowing more load on a vehicle without compensating for the increased load results in vehicles that are less safe than they used to be. When going to more weight, productive size and weight rolls do not allow higher loads on existing vehicles.

Consideration of higher loads is especially unwarranted in light of a number of existing truck safety problems. We identify two: Driver fatigue is a particular concern of ours. Too many drivers are spending too many hours behind the wheel.

In a four-State study we did involving 1,000 truck drivers interviewed by the Institute researchers in 1992, for example, 19 percent admitted falling asleep at the wheel one or more times in the past month. A further finding was the drivers who violated work rules mostly by driving longer than the Federal limit, reported falling asleep 77 percent more often than truck drivers who said they adhered to work hours limits.

Also on truck brakes, as has been pointed out, current truck brakes are inadequate. They overheat quickly at speeds faster than 10 miles an hour and then they fail. Compared with passenger cars, truck brakes have less lining and square inches per pound of vehicle weight, they have lighter brake drums per pound, they also have less contact between the brake linings and the drums. Therefore, it is not surprising that trucks take much longer to stop than cars.

According to a NHTSA study, loaded tractor trailers typically take 225 to 300 feet to stop from 60 miles an hour on a dry road. In contrast, cars take 175 feet. Institute research shows a similar result. In fact, the National Transportation Safety Board in a representative survey, which it should be stressed, and that Mr. Donohue did point out, that the reason that you find abnormal percentages of trucks out of service is because they are the ones that are easy to identify.

In a representative survey done by the National Transportation Safety Board of more than 1,500 trucks, 56 percent had brake defects serious enough to put the rigs out of service. These obviously are not the only truck safety problems we are facing, but they are among the most important ones.

We obviously would strongly support prompt action on anti-lock braking systems for trucks, but it makes no sense to consider either at the Federal or State levels any increase in size and weight until these pending issues are dealt with.

Before concluding, Mr. Chairman, I would like to commend Administrator Slater and Congressman Valentine, the American Trucking Association and seven other groups for acting on radar detector bans, which finally did take effect. In addition to the ATA, the other groups were the American Automobile Association, the National Safety Council, the Insurance Institute for Highway Safety, the National Association of Governors' Highway Safety Representatives, the International Association of Chiefs of Police, Public Citizen, and Advocates for Highway and Auto Safety.

Thank you again.

When it is time for questions, I would be pleased to answer.

Mr. RAHALL. Mr. Wyland.

Mr. WYLAND. Thank you, Mr. Chairman.

For the record, I am Darryl Wyland, I am Senior Vice President of the American Automobile Association. At least one of the advantages of being the last one on the panel is that it is very easy to summarize the statement which was filed earlier. In the interest of time, I am going to summarize even further.

Let me say that AAA and its members, and we have 36 million members in all 50 States, are concerned about a number of issues related to motor carrier safety and regulation. Our statement to the subcommittee today, however, is going to be restricted to two issues of particular concern:

Truck size and weight limitations, and covering and securing loads of loose materials. We strongly endorse Congressman Oberstar's bill and its extension of the truck length and weight limits which are now in effect on the interstate system to the National Highway System.

Let me say that we are not here to denigrate the trucking industry. I have the good fortune, and I mean that sincerely, to work with Tom Donohue and his staff on a number of issues related to transportation matters in general. We work together very positively and in a very cooperative way. But I have to say that on this issue his position is simply wrong.

We fully recognize the importance and the necessity of a strong trucking industry to our economy and to our standard of living, but we are concerned about ongoing efforts by some segments for that industry to obtain bigger and bigger trailers and increases in allowable weights.

The harsh reality is that increased truck sizes and weights damage roads and bridges, they jeopardize public safety, and they alarm the motoring public. They also enhance the profitability of some trucking and shipping concerns, thereby encouraging them to push continually for bigger and bigger rigs.

Unfortunately, increases in truck sizes and weights, once granted, are rarely rolled back. Once allowed, bigger trucks remain, regardless of the damage or safety problems that are later shown to result. The trucking industry has repeatedly claimed that the use of longer, heavier trucks, would reduce the number of trucks on the roads, and we heard that this morning earlier, and that that reduction would thereby reduce energy use, air pollution, and congestion. Experience does not support this claim.

Since 1981 the number of trucks registered has increased 31 percent, while growth in highway freight moved has increased 44 percent. The additional freight being moved today is moving on more trucks, driving more miles, and not as a result of more freight per truck.

As we have already heard, trucks are also overrepresented in fatal collisions. Commercial trucks are involved in fatal crashes at nearly twice the rate of passenger vehicles. Medium and heavy combination trucks constitute only 4 percent of registered vehicles, but are involved in 8 percent of fatal collisions, double their number.

Sharing the roads with larger and larger trucks is a significant and growing concern of the motoring public. Big rigs are intimidating and they tend to induce driver error. This concern is clearly reflected in the results of a 1990 study by the AAA Foundation for Traffic Safety, entitled "Older Drivers' Perceptions of Problems in Freeway Use." That study found that older drivers have particularly acute problems interacting with large trucks.

In fact, trucks received the highest overall rating of concern among factors influencing freeway driving in both surveys and in follow-up focus group discussions. Several focus group participants indicated that large trucks were the reason they avoided freeway driving and many more reported changing travel plans to avoid heavy truck traffic.

AAA firmly believes that extending the current interstate highway truck size and weight limits to the National Highway System is needed, and it is needed now.

Mr. Chairman, if I could interject for a moment, I was intrigued this morning by Administrator Slater's comment that before any-

thing is done, a study is needed and that no study has been done by FHWA in 30 years. That is probably true.

Others have studied it, but I suggest with all respect to Mr. Slater, that that argument argues against his position. If there is not enough data available now to let us know what the correct weight and size limits should be, it is only logical that we freeze them now until we do learn what they are because the study might show that we are already oversized and overweight. And I respectfully suggest that it is wrong for the Congress to allow a continuing increase in truck sizes and weights while some day in the future we complete a study that shows that that was the wrong action to take.

Mr. Chairman, I also would like to speak briefly to Congressman Lipinski's legislation, H.R. 2967, the bill which establishes national requirements for covering and securing loads on commercial vehicles. Laws requiring the coverage or securing of loads and restricting spillage have been enacted in a number of States, and many trucking companies have policies requiring loads to be secured and/or covered to protect their cargo.

Unfortunately, these laws and policies are widely variable, and enforcement is often spotty. As a result, too many motorists still experience damaged vehicles and flying debris, and our roads are still littered with spillage.

Here, too, safety is a paramount issue. Several years ago AAA successfully advocated that a load cover requirement similar to the one contemplated by Congressman Lipinski's bill be incorporated in the uniform vehicle code, a model set of laws designed as a comprehensive guide for State motor vehicle and traffic laws.

Unfortunately, our experience with the load cover provision of the code suggested it could literally take decades before all States adopt language requiring the covering of loads to reduce truck spillage and related instances of damaged vehicles. We applaud the rulemaking requirement of this bill, and we believe it will encourage States to adopt meaningful and effective load spillage prohibitions.

Mr. Chairman, if I could interject one final comment in response to I believe your question with respect to the efficacy of that bill. Mr. Donohue replied that it went only halfway. As I read it, it applies specifically to loads of loose material which are likely to leave the truck, and I suggest that the bill as drafted should receive favorable consideration.

Mr. Chairman, thank you for your time and your attention. I will be happy to answer any questions.

Mr. RAHALL. Thank you very much, I appreciate it.

I must say to this panel, you are quite unique today. You have a captive audience in our subcommittee—me, myself, and I—so I am here alone, fire at me.

Let me begin by saying to you, Joan, and all of you, you have countered Mr. Donohue's figures, and there is certainly no lack of figures and statistics on this issue. As a matter of fact, the way CRASH has been distributing them and throwing them around my district in flyers and brochures, I am having a little trouble distinguishing them anymore from my opponent's brochures, and knowing which facts and figures are disingenuous, and which ones are

true and which ones are not. So I must say the figures are out there, and I appreciate the information that you have given.

You know, you are advocating the argument that Representative Oberstar's legislation is necessary in order to prevent any further increases in truck sizes and weights. I have only been Chairman of the subcommittee now for a year and a half, but I must say that in that year and a half tenure not one individual or group or representative thereof has approached me to suggest that we increase the existing Federal truck weight limitation.

Now, if you have any knowledge to counter this, I would appreciate hearing it, but I have not experienced that, and I have not seen any serious effort or legislative proposal to increase truck weight and sizes.

Ms. CLAYBROOK. Well, I think, Mr. Chairman, that is a very strategic issue. The trucking industry goes to the State level when they think they can win there, and they come to the Federal level when they think they can win at the Federal level. And you are talking the Federal level.

Right now, they are working State level with the lengths of these trucks. They also, I believe, were working in West Virginia to increase the weight from 80,000 pounds to 120,000 pounds in this legislative session. So there has been activity, it just hasn't been right here. And I think in part the reason is because the organization that I represent and Jerry Donaldson represents has been very active in trying to push in the other direction, and that Mr. Donohue has not wanted to probably engage at this moment at the Federal level, but has focused at the State level.

When it has been convenient, for example, in 1982 when CRASH did not exist, Mr. Donohue did push for a minimum level for the trailers of 48 feet. Some States were very much opposed to that and wanted to have smaller trailers, but then he felt that he could get it through and so he pushed for—not only Mr. Donohue but the whole Trucking Association pushed for a minimum of 48 feet. And so while I haven't myself heard of anyone pushing to increase truck weight or size at the Federal level, they certainly are very active at the State level.

Mr. DONALDSON. I would like to add to that, too, Mr. Chairman.

Joan's characterization about moving at the Federal level or dealing with you in terms of an initiative to increase weights, is certainly correct, but the trucking industry, the American Trucking Association has openly acknowledged their interest in moving to a higher weight limit. And, indeed, just this past January at a convocation of all the State highway departments dealing with truck sizes and weight, one of their vice presidents openly espoused an 88,000-pound truck, so it is no secret that they are interested in higher weight limits.

In regard to your other remark about having a track record in dealing with this, we all know that back in the early 1970s that it was the State-by-State program to get States to move from 73,280 pounds gross to 80,000 pounds gross, and to commensurately raise axle limits. That was the pretext behind finally going to Congress and saying most of the States have complied, but we have a few barrier States which haven't rolled over and played dead, and we want you to federally preempt them and give us na-

tional uniformity. And indeed Congress acted in that regard. That is just one of a number of ways of size and weight increases in which the trucking industry has gone State by State and then gone to get Federal homogeneity.

Ms. CLAYBROOK. I would mention also in his statement today, Mr. Donohue did mention the NAFTA weight limits are higher and that he didn't want any action by the Congress which would prevent us from moving administratively or legislatively to a higher number, and that number he suggests, 88,000 pounds, is sort of a good next stopping point on the road to higher weights.

Mr. RAHALL. Okay, you mentioned the effort in my home State of West Virginia. To my knowledge, it has not been successful.

Ms. CLAYBROOK. That is correct.

Mr. RAHALL. As you know, we have a noninterstate weight limit of 65,000 pounds, the lowest in the Nation, in the State of West Virginia. Although at the State's discretion, 80,000-pound trucks can traverse certain routes. By extending an 80,000-pound limit to all NHS routes, as in the Oberstar legislation, I am deeply concerned that perhaps in my State of West Virginia, this would put pressure on the State to increase the current 65,000-pound limit to this new Federal limit. In other words, the States always try to meet the Federal minimum.

Any comments on that?

Ms. CLAYBROOK. This would be a maximum, not a minimum, the 80,000 pounds would be a maximum, not a minimum. We are opposed to having a minimum weight. We think the States absolutely ought to have that kind of discretion.

Mr. RAHALL. Wouldn't there still be pressure? Don't you still see pressure coming up in our State?

Ms. CLAYBROOK. I would be happy to come down and testify in your legislature and say that was not our intent.

Mr. RAHALL. No, I better not touch that.

Ms. CLAYBROOK. Or go to the newspapers or have a press conference or any of the other things that Mr. Donohue doesn't think we should do in order to educate the public.

Mr. RAHALL. Let me comment on a number of other concerns that we have discussed already today. I know you have heard the discussion take place as well, regarding the effects of the Oberstar legislation on reducing congestion and improving air quality. Perhaps it is too simplistic, but if truck size and weights are frozen, doesn't that mean that there will be more and more trucks plowing through our countryside, that instead of one large truck, it will be divided up into two, three, or four smaller trucks?

Doesn't that mean then in places like L.A. where there will be more and more trucks coming out of the ports of Long Beach, that this is going to lead to greater congestion, more tail pipe emissions, and deterioration of air qualities?

Ms. CLAYBROOK. Well, Mr. Donohue threw that argument out, but he didn't give it any substantiation. I think maybe the committee should ask him for the basis for that statement because historically that has not been shown to be correct, and I think the Automobile Association, which has testified, made this rather clear, that we have had increasing truck size and weight, and we have had an exponential growth in the number of trucks, you would think

if Mr. Donohue's presumption—argument, but not factually based, as far as I know, his statement is correct, then we wouldn't have seen that kind of growth because we have had some significant increases in the size and the weight of trucks over the last decade, decade and a half.

Mr. DONALDSON. Could I make some, provide some items for the committee in response to that question?

First of all, at any given time, on any given highway, the overwhelming, and stress the word "overwhelming," the overwhelming majority of the trucks on that highway are running either partially laden or empty or if they have a full cube-out load on there it is significantly below the gross and/or axle limits that the State permits, so at any given time what we are dealing with in terms of extra heavy trucks, trucks which are very often running under permit if a State doesn't have also off of its interstate system slightly higher weight limits than the interstate weight limits is really a very tiny percentage of trucks, so we are not talking about this massive dislocation of trucks which is supposedly taking place if we have a freeze from heavier trucks into smaller trucks because indeed that is not going to take place at all.

The second point that ought to be made here is when you have a very heavy truck, say 110,000- or 120,000-pound truck, that truck is very inefficient with fuel consumption, and in fact tail pipe emissions soar. Fuel consumption soars. That truck probably under ordinary operating conditions produces as much tail pipe emissions as two or three more lightly laden trucks on the road, so we certainly get no benefit in terms of ambient air pollution by wanting to engage in a freeze because the bigger trucks are the offenders right now and having lighter trucks out there is in fact going to give us better safety and better air pollution.

Mr. RAHALL. I have visited a number of ports this year, on the West Coast and the East Coast, and they are all espousing a number of statistics showing increases in freight transportation, especially in the post-NAFTA era.

They also speak very highly of intermodalism and have a desire to want to develop these intermodal ports so that they can get commodities from, say, a seaport to a railhead facility.

Would there be any dampening of their enthusiasm for such development if we were to adopt the Oberstar legislation? How do you keep their enthusiasm for wanting to continue to develop these intermodal facilities to get the increased freight from the seaports to the railhead facilities?

Ms. CLAYBROOK. Well, first of all, I would say that looking at most States that are seacoast States, they have State laws that have 80,000 pounds right now. That is point one.

Point two is that we are very much in favor of intermodalism, but intermodalism works best when there is clarity about what are the weights and sizes because it is a big investment in these intermodal facilities, and it seems to me that if you had the clarity of the Oberstar bill, then you would increase intermodalism because people would know exactly what those limits were because they would be a federally stated limit and it would be much more likely to be clear for them for their investment.

From my own experience, just in the automobile industry, when you have clarity and surety by the manufacturers that they know what they are going to do, then they make the big investments to have things happen. If the things are changing all the time, as it has been in both truck size and weight, then it deters investment.

Mr. DONALDSON. Another facet to the answer, Mr. Chairman, is that if you have legitimate containers right now which are existing under State law or ordinance that are greater than 80,000 pounds, then under a freeze, of course, those containers could continue to be moved at those weights which are in excess of 80,000 pounds, but realistically part of what the freeze is also going to accomplish in terms of its other provisions is to have to engage in inspection of what is properly regarded as a divisible load, and the fact of the matter is, is that one of the worst abusers on the highway are sealed international maritime containers which have in most instances inherently divisible contents, but basically shippers, State officials, permitting authorities have decided to look the other way and to slap an undivisible load permit on these containers, many of which are moving at 95,000 and 110,000 pounds and are wreaking devastating destruction, particularly on our bridges, and that is one of the things which honestly we need to cure.

In terms of things that are still legitimately movable but over 80,000 pounds, a freeze would allow those containers to continue to be moved at those weights.

Mr. RAHALL. What about the effects of such a freeze in times of military readiness; I mean, if we have to respond and move heavy equipment, how would you take into account——

Mr. DONALDSON. There is always a presidential state of emergency that would override.

Ms. CLAYBROOK. Also, if it is a nondivisible load—I mean, it could be that it is a nondivisible load.

Mr. RAHALL. Possibly. A lot of loads could be divisible, too, but they just have to get there in the quickest way.

Ms. CLAYBROOK. The quickest way may not be on a truck, too, but whatever. There are a number of different steps that obviously could be taken if it were a true emergency. I mean, I think that if there is—if the committee is sincerely concerned about that particular matter, then it seems to me you can give discretion to the Department of Transportation in this legislation to grant exceptions on a regulatory basis for particular military movement.

Mr. RAHALL. Let me ask you about something else that I don't really see emphasized in all of your testimony, and that is enforcement of what is on the books today. Do you think that the biggest problem today is not necessarily the size and weights issue but the lack of effective and aggressive enforcement motor carrier laws as they exist today?

Ms. CLAYBROOK. We are obviously very concerned about that. It was one of the reasons that one of the provisions that Mr. Oberstar has in this bill deals with the nondivisible load permits, and we were pleased, Mr. Chairman, very pleased, and thank you for putting that particular provision also in the National Highway System legislation. So we are deeply concerned about that.

I think that also another kind of enforcement not directly on point with your question but is that the whole issue of the Symms

amendment which is the claiming of the grandfather rights, we feel that there ought to be an independent body making that decision, which is the U.S. Department of Transportation, which used to make that decision until 1982. And then in addition, of course, we are concerned about enforcement—and maybe Jerry has a few additional comments on the enforcement.

Mr. DONALDSON. Well, one of the things I wanted to remark on was the fact that, yes, we are in favor of better enforcement, and yes, we think that better enforcement has been forthcoming in the past decade. We think the MCSAP program has certainly helped to improve that. But the problem is that all the good enforcement in the world is not going to cure the problem of abusive permitting practices where you can go to a permitting authority for $10 or $25 or $50, Mr. Chairman, you can buy a multiple trip permit which does not toll how many trips you actually take on an annual or other basis to take the benefit of that permit.

Some trucking companies are making hundreds, even arguably in large States, thousands of trips a year for a large carrier with multiple trip permits which cost almost nothing to get, and we do not know to what extent that company is really supporting its fair share of the kinds of costs that are being sustained by our bridges and our pavements and the rate of destruction that is being visited on them.

All the enforcement in the world is not going to help us with that, even if the carrier scrupulously observed its permitting responsibilities, it is still basically way out of line in terms of what it is doing to our roads and bridges.

Mr. RAHALL. Thank you.

Ms. CLAYBROOK. Thank you very much.

Mr. RAHALL. Our Ranking Minority Member, Mr. Shuster, would like to submit some questions for the record, to which we would appreciate your answers.

Does the gentleman from Wisconsin have any questions?

Mr. PETRI. No.

Mr. RAHALL. Thank you.

Ms. CLAYBROOK. Thank you very much.

Mr. RAHALL. Our next panel consists of Mr. John Loeb, the President of Jay Dee/Tomfor Transportation Company, Roosevelt, New York, on behalf of the National School Transportation Association, for which he is President-elect, in Washington, D.C.; Mr. Gene Bergoffen, National Private Truck Council, Washington D.C.; and Dr. Roger Tatum, Director of Chemistry, U.S. Alcohol Testing of America Incorporated, Rancho Cucamonga, California.

We understand Mr. Bergoffen has a very tight time schedule, so if the panel would allow it we would ask that he testify first so that he may leave first.

STATEMENT OF GENE S. BERGOFFEN, PRESIDENT AND CEO, NATIONAL PRIVATE TRUCK COUNCIL; JOHN LOEB, PRESIDENT, JAY DEE/TOMFOR TRANSPORTATION, ROOSEVELT, NY, AND PRESIDENT-ELECT AND CHAIRMAN, GOVERNMENTAL RELATIONS COMMITTEE, NATIONAL SCHOOL TRANSPORTATION ASSOCIATION; AND DR. ROGER TATUM, DIRECTOR OF CHEMISTRY, U.S. ALCOHOL TESTING OF AMERICA, INC.

Mr. BERGOFFEN. Thank you very much, Mr. Chairman, and thank you for the privilege of representing the National Private Truck Council, an organization representing nearly two-thirds of all the trucks on the road, both heavy and lighter duty vehicles. I know my statement will be printed in full in the record, and I would like to highlight it.

Our basic view is that the current approaches to truck safety regulation and enforcement have made a very important difference. Our challenge now is to even make more of a difference, efficiently, given our limits on people and resources available.

There are limited dollars and there are limited people. Current enforcement relies primarily on threats and penalties. I call it the Sword of Damocles approach. We think that we can achieve a breakthrough, though, through performance-based regulation and enforcement.

Now, by that we mean regulations which demand outcomes, not detailed specific actions, and regulations which provide incentives, incentives for performance, not just threats. Government action should be geared toward working smarter, not harder, by focusing enforcement attention on those fleets needing it the most as well as critical elements of accident causation, and by that we mean human factors as well as equipment that need it the most.

An example of government regulation at its best, that does what we suggest, is the Federal Highway Administration's zero-base review of the Federal motor carrier regulations. This initiative seeks to review the existing regulations to determine whether they are rational and justified, understandable and not duplicative, worthy of implementation, performance-based, enforceable, and most importantly, actually enhance safety and reduce accidents.

They are looking at a rule book of the future that will truly make a difference. Better use of data, we have talked a lot about data today, but better use of better data to identify problem carriers and drivers and improve motor carrier safety, particularly through the use of intelligent vehicle highway systems technology, is another means to achieve performance-based safety management in a more cost-effective manner. And I would like to add that our database, our information architecture, if you will, about safety, about trucking, and about what is important to regulate and what isn't, is very lacking.

There are many silos of excellence in trucking safety regulation. What we need to do is bring together common standards of information so that we can truly measure whether there is good safety performance. From our standpoint the greatest potential benefit to be derived from this IVHS commercial vehicle operations activity is implementation of a nationwide commercial vehicle network

where trucks can voluntarily travel the Nation's highways just as cars do without stopping at State borders and weigh stations.

Safety and other regulatory checks can be made automatically with technology from the roadside or even from satellites or other kinds of ways without delays. This promises the multiple benefits of lower cost safety enforcement while lowering transportation costs and improving productivity.

The enforcement community would continue its current approach to enforcement, but it would be able to use its resources more effectively by identifying the carriers that need the inspection the most. The premier carrier program, another FHWA effort, is an example of an excellent safety initiative. The concept is to identify in advance those fleets which have shown superior safety records. And I would like to add that fleets like Frito Lay, which we are proud to say is a member of the National Private Truck Council, is an example of such a fleet. These superior safety records can be identified so that limited enforcement resources can be focused on the fleets that pose the greatest public risk, who do not volunteer and who do not demonstrate that safety performance.

The fleets would need to maintain minimum safety performance standards, and as an incentive to participate, they could be offered uninterrupted over the road service through electronic clearance and other means, thereby avoiding time consuming waits at weigh stations and during roadside inspections. Other examples are listed in more detail in our statement.

Now, you have launched a number of important safety initiatives, and I would like to sound a short note of caution here. The Office of Motor Carrier is moving quickly to make these initiatives happen. An example, the Commercial Vehicle Information System which was included in the ISTEA, as a requirement; $2 million a year is earmarked annually through IVHS funding, it is a requirement that the States experiment with a notion of linking safety performance of fleets as those fleets that seek to register. Those fleets which do not have demonstrated safety records will not be allowed to register and will not be allowed to run their vehicles.

This project is underway. It is in its initial stages, five base States will be performing that test in the next few years. You would be amazed at the progress and the synergy that is occurring with this project. The Carrier Safety Fitness System or the 100 MCSAP Sites Project, which is another result of initiatives Congress has taken, will allow roadside inspectors in advance to identify those fleets which need and will be monitored as they move through the stations.

You can envision the idea of the enforcement folks having handheld lap-top computers right there, pen-based, where they will be able to dial up, if you will, the entire safety record of that fleet. Those are the kinds of information-based, performance-based safety techniques and initiatives you have started.

We want you to be careful to let these revolutionary—and they are very revolutionary initiatives, they cross State lines, they rely on uniform preidentified criteria—run their course and avoid the temptation to micromanage before those projects can prove their worth.

The legislation limiting trailer sizes and weights that you discussed is an example of something that we believe Congress should not do. I would like to endorse and subscribe to the comments of Charles Ratliff about the legislation. We are seeking credible data to justify this particular approach.

To summarize, Congress and the Federal agencies should focus on performance standards which allow businesses maximum flexibility to achieve results with incentives in the most cost-effective manner and to concentrate truck safety initiatives on those areas which are most likely to achieve real gains in safety performance.

You should refrain from actions that are not performance-based, outcome-based and are not justified on the basis that they will actually reduce accidents and improve safety.

Thank you, Mr. Chairman, I would be happy to answer any questions that you have.

Mr. RAHALL. If you have a plane to catch, we understand.

Mr. BERGOFFEN. I would like to ask Earl Eisenhart, our Vice President of Government Affairs to sit in for me, if I may?

Mr. RAHALL. Sure.

Mr. Loeb.

Mr. LOEB. Good afternoon, Chairman Rahall and Members of this distinguished subcommittee. My name is John Loeb and I am President of Jay Dee/Tomfor in Roosevelt, New York.

Today we operate 925 school buses, serving 85 school districts in the New York metropolitan area. I offer testimony on behalf of the National School Transportation Association or NSTA. I am privileged to serve as Chairman of the NSTA Governmental Relations Committee, as a member of the Board of Directors, and as President elect.

With more than 350 member firms engaged in pupil transportation in some 50 States and Canada, NSTA is the national trade association for contractor-owned and operated school buses which now number some 110,000, a very significant portion of the Nation's yellow school bus fleet.

Our member contractors are predominantly small businesses operating fleets of 25 or fewer school buses, though there are also some larger companies which operate many thousands of school buses in multiple States. Our members offer the full range of pupil transportation services to school districts, including the provision of vehicles, drivers, maintenance, driver hiring and training, sophisticated routing services, fueling and storage.

I am proud that NSTA is a national leader for school bus safety and has worked closely with our member firms and school districts to produce advances in the design, performance, and operation of school buses which have yielded the best safety record for any mode of surface transportation. Our paramount interest and one never to be compromised is the safety of the 23 million schoolchildren transported to and from school and school-related activities every day of the academic year.

It is in the spirit of this commitment that I come before you today. This committee has long been at the forefront of working to establish the highest possible standard of safety to be achieved in our industry, and in its wisdom the Congress has sought to bring uniformity to the application of the standard, most recently in two

landmark transportation safety initiatives: The commercial drivers license program and drug and alcohol testing for transportation workers.

Those bold new programs have made a significant contribution to safety and established a new baseline for application of Federal safety requirements. These acts established as a matter of law a more comprehensive definition of covered bus operations. State and local governments and by extension then school districts as well are not provided any so-called governmental immunity exemptions from these sweeping new requirements.

Private for-hire carriers and public agencies are subject to precisely the same requirements when engaged in interstate transportation. The definition of commercial motor vehicle has now been clearly established as one with a gross vehicle weight rating of 26,001 or more pounds as well as vehicles designed to transport more than 15 passengers, including the driver. Application of these requirements without distinction as to whether the bus is operated by a private or public entity provides uniformity and equity, and most importantly assures the riding public that their safety interests will never be shortchanged.

I bring to your attention today, Mr. Chairman, one relic of a past era which has escaped this more rational policy framework and which warrants your attention, and I would hope your prompt and decisive legislative action would be forthcoming. It is the reality that vehicles engaged in interstate operations generally traverse higher speed arteries or portions of our Nation's interstate system that gave rise to the Federal motor carrier safety regulations.

These regulations have been incrementally modified over the years to reflect modern day exigencies of surface transportation. Most recently and after 10 years of foot dragging following direction from Congress in the Motor Carrier Safety Act of 1984, the Federal Highway Administration at long last issued final rules governing private noncommercial motor carriers of passengers.

These vehicles typically are owned and operated by religious-based organizations or churches, scout groups and other local not-for-profit civic and social organizations. This leaves only one segment of the bus industry which remains beyond the purview of the Federal motor carriers safety regulations—school districts which own and operate their own buses when engaged in pupil transportation across state lines.

Examples of such school-sponsored interstate operations might include field trips which are extensions of the instructional program, athletic competitions, events to which school clubs have been invited to participate, vocational or trade training, volunteer activities, and recreational outings such as dances, picnics, and overnight camping trips.

Let me illustrate the practical implications of this uneven application of Federal safety guidelines. Let us suppose that a fourth grade class from school "X" in Montgomery County, Maryland, takes a school-sponsored field trip into the District of Columbia to visit the Smithsonian museums. Montgomery County in this instance owns and operates its own school bus fleet, nearby school "Y" in Anne Arundel County, Maryland, also plans a fourth grade class trip to the Smithsonian. In this case the school district ar-

ranges for one of its contractor-owned and operated vehicles to make the trip.

Please keep in mind that both vehicles are transporting fourth grade public schoolchildren on a school-related activity to the very same destination on precisely the same vehicle type. There is one very important distinction, however, Mr. Chairman, and that is by virtue of the so-called government entity exemption, the district-operated bus is singularly not required to adhere to the requirements of the Federal motor carrier safety regulations.

What do these regulations provide for interstate operations that school district-owned and operated buses presently are not subjected to? Most notably, pre- and post-trip vehicle inspections, keeping of driver logs, observance of hours of service restrictions, certain vehicle exterior identification markings, additional interior signage and warning lights, driver physical examinations and written knowledge testing, and accident reporting requirements.

In our view, if achievement of optimal safety for the Nation's 23 million schoolchildren is truly our shared objective and ever to be fully realized, then these exacting Federal safety regulations must be applied uniformly to any interstate school bus operation without regard to what entity owns and operates that bus. These children, our Nation's most precious cargo, deserve no less.

Let me be clear about one point, Mr. Chairman. The cost implications of the modification we implore you to adopt are modest at worst. This is not about more unfunded Federal mandates, issues of competitiveness or even about costly and burdensome regulatory requirements. This issue, quite simply is about one thing—safety.

In 1990, the 11th National Conference on School Transportation stated that all school bus operators and vehicles should comply with all Federal requirements when operating in interstate passenger transportation. The statement of policy was set forth in an official publication entitled "National Standards of School Bus Vehicles and School Bus Operations." It reflects the views of the officials represented as State departments of education and transportation, local school district transportation personnel, contract operators, advisers from industry and other interested professional organizations.

At this time, I would ask that a letter directed to you on May 3rd from Mr. Cecil C. Dolin, State Director of School Transportation and Facilities for the State of West Virginia Department of Education be included in the hearing record.

[The information follows:]

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May 3, 1994

The Honorable Nick Joe Rahall
Chairman, Subcommittee on Surface Transportation
United States House of Representatives
B-375 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Rahall:

As director of school transportation for the state of West Virginia, I would like to bring to your attention, and that of the Subcommittee which you so ably chair, an issue which demands a legislative remedy. As your Subcommittee moves toward oversight hearings on Federal Motor Carrier Act issues later this year, I would urge that you give consideration to making the Federal Carrier Safety Regulations (FMCSR's) applicable to school districts when engaged in interstate pupil transportation.

In 1990, the National Conference on School Transportation resolved that all school bus operators and vehicles should comply with all Federal requirements when operating in interstate passenger transportation. The statement of policy was set forth in "National Standards for School Buses and Operations" which reflects the views of the official representatives of State Departments of Education and Transportation, local school district transportation personnel, contract operators, advisors from industry and other interested professional organizations. The Conference was co-sponsored by the National Association of State Directors of Pupil Transportation Services, the National Association of Pupil Transportation, the National School Transportation Association, the School Transportation Section of the National Safety Council, and the School Bus Manufacturers Institute.

When operating across state lines, school buses almost without exception must use the same highways -- many of them high-speed arterias -- as other vehicles. The speeds attained are considerably greater and there is an elevated risk of associated driver fatigue. This fact underscores the need for comprehensive and consistent application of the FMCSR's to any school bus operating across state lines when engaged in school-related and sanctioned activities. Such activities typically include: field trips which are extensions of the educational program; athletic competition; events in which school clubs have been invited to participate; vocational and/or trade training; volunteer activities; and recreational outings such as dances, picnics and overnight camping trips.

Since their inception in 1935, the FMCSR's have been incrementally modified. For example, in 1989 the Federal Highway Administration (FHWA) issued modifications which for the first time subjected all interstate contractor-operated (for-hire) school transportation operations to the FMCSR's. Just last month, the FHWA extended application of the FMCSR's to most interstate private bus operations such as scout groups and churches. If our shared commitment to achieving the highest possible standard of safety for our school children is to be fully realized, then the Congress must move to direct the FHWA to extend the FMCSR's to school districts as well, thus ensuring for the first time truly comprehensive and consistent application of the best safety guidelines we have developed to date. With safety our paramount concern, the highest standard should apply to any school bus engaged in interstate transportation regardless of the nature of the entity which owns and operates that vehicle. At stake is the safety of the 24 million children entrusted to our school transportation system each day.

I respectfully urge that your Subcommittee explore this issue further and act to uniformly apply the FMCSR's to school transportation. The fiscal implications of such action would be minor while the policy considerations are compelling indeed. Thank you for your consideration of this issue which brought together the disparate interests of school transportation in 1990 and which today demands the attention of the Congress. I look forward to hearing from you and am available to respond to any further questions you or your staff may have on this subject.

Sincerely,

Cecil C. Dolin

Cecil C. Dolin, State Director
School Transportation and Facilities

CCD:jj

cc: Karen Finkel
Kyle Martin

Mr. LOEB. In his thoughtful letter, Mr. Dolin speaks to the recommendations of the 1990 National Conference and embraces our view that the Federal motor carrier safety regulations must be applied comprehensively and consistently in the name of safety.

Mr. Chairman, it is also important to note that as recently as today the ABA, American Bus Association, has also taken this same position on this particular issue.

In conclusion, the time for preserving sacred cows in our Nation's highway safety laws and regulations has passed. The public must know that the highest possible safety standard will always be adhered to without regard to ownership, location or prior law exemptions.

This problem calls out for the subcommittee's earliest attention. The Federal Highway Administration informs us that for it to pursue the necessary rulemaking that will remedy this problem, legislative direction is required.

Today we solicit your support for such legislative remedy and thank you for your continuing commitment to safety on our Nation's yellow school buses.

I am prepared to respond to any questions you or other Members of the subcommittee might wish to pose.

Thank you.

Mr. RAHALL. Thank you.

Dr. Tatum.

Dr. TATUM. Thank you, Mr. Chairman, for allowing me to address the subcommittee hearing. My name is Dr. Roger Tatum, and I am the Director of Chemistry at U.S. Alcohol Testing of America Incorporated, a manufacturer of alcohol breath testing equipment. I am a Ph.D. Analytical Chemist and Professor of Chemistry for La Sierra University campus associated with Loma Linda University.

We have been involved with the Department of Transportation's National Highway Traffic Safety Administration for several years in the area of alcohol testing and have testified concerning both the proposed and final rule in person and in writing. Consequently, we share your concern for safety for our Nation's transportation modes.

Congress passed the Omnibus Transportation Employee Testing Act which was part of the fiscal year 1992 appropriations bill, requiring DOT to establish alcohol testing regulations throughout the transportation industry. We are very concerned about certain issues in the final rule adopted by DOT, which may create problems of accuracy and fairness for employees being tested, for the unions representing them, and for their employers who are required to supervise this breath alcohol testing. Most importantly, the rule will have a deleterious effect on transportation safety in this country.

Since the majority of those employees affected by this regulation are involved in surface transportation, we believe it is important for this committee to be made aware of these issues. Although the enabling legislation and the DOT proposed rule have defined alcohol as ethyl or beverage alcohol, the final rule, arbitrarily changed the historical definition to include, quote, "low molecular weight alcohols, including methanol and isopropanol" unquote.

According to DOT, this new definition was adopted in order to better reflect State laws and the capabilities of current alcohol

breath testing devices and to help promote public safety. Unfortunately, none of these stated reasons is based upon fact.

This seemingly innocuous change in the legal definition of alcohol is based upon bad science, will prove to be bad public policy, and will bring legal confusion into the courtroom for years, as the Nation implements this well-intentioned and important legislation.

It is a scientific principle that a single measurement cannot accurately quantify more than a single component of a mixture. In order to accurately measure mixtures, such as the low molecular weight alcohols newly defined by DOT, multiple measurements and calculations must be performed.

We have data submitted with this document that proves that each different technology currently approved by DOT for breath alcohol testing yields different quantitative results in the presence of mixtures of low molecular weight alcohols such as those defined by DOT. The Department has admitted that no scientific studies have ever been performed which support the accuracy of testing mixtures of alcohol other than ethanol.

In fact, the Cambridge, Massachusetts laboratory that DOT runs tests on breath alcohol devices for accuracy and inclusion on its conforming product list using only ethyl alcohol standards. Also, no scientific nor any legal body has ever defined the term low molecular weight alcohols that DOT has created.

In fact, not a single State or the District of Columbia defines alcohol precisely as defined by DOT in its final rule. The lower level detection requirements set forth in the final rule, .02 to .04 percent breath alcohol, also significantly increases the risk of interfering substances from foods, over the counter, and prescription medications, industrial, and environmental exposure being misinterpreted by breath alcohol test devices as if they were all ethyl alcohol. These other volatile organic compounds, some of which are measured and displayed as if they were ethyl alcohol, can enter the blood through involuntary inhalation or skin absorption and become additive in the breath.

Breath alcohol instruments, many of which are already included on the DOT conforming products list, incapable of discriminating between such various volatile organic compounds, including low molecular weight alcohols, cannot possibly accurately report breath alcohol levels correctly. Such inaccurate results, though reported as seemingly correct, may cause instances of false positives in which legally sober transportation workers are incorrectly removed from the workplace at considerable expense and risk of costly subsequent legal action to their employers.

Most importantly, inaccurate results may result in false negatives, permitting transportation employees on the highways when they should have been removed, thus undermining the safety intent of the final rule.

Such uncertainties caused by arbitrarily changing the time-tested legal definition of alcohol will certainly open the door for increased legal challenges against those employers honestly using their best efforts to implement the 1991 law.

Indeed, a flood of legal challenges based on the fact that DOT and NHTSA have approved devices on their conforming product lists that were never tested for accuracy on each of the alcohols

which fall under their arbitrary new definition may prove troublesome to the entire Transportation Act.

This arbitrary change in the legal definition of alcohol could compromise employee rights to fair and accurate alcohol breath testing due to increased possibility of false positive readings, which could cause unfair discipline, loss of employment, and compromise of employees' reputations. Unjust discipline and termination will extend beyond individual employees to the union, to employers, and to the entire transportation industry. Employers will bear the burden of defending alcohol tests which have no true scientific reliability.

It is our recommendation that you review this aspect of the final rule and the adverse results it will undoubtedly ultimately produce. After consideration it is our hope that you will take such appropriate action as is necessary to ensure that the Department of Transportation reverse its final rule to the previously legally accepted definition of alcohol as quote, "ethyl alcohol or beverage alcohol" unquote.

If we are to avoid the aforementioned legal dilemmas for the transportation industry in this country and fully protect transportation employee rights, the definition of alcohol must be returned to ethyl alcohol only.

Again, thank you, Mr. Chairman, for allowing us to appear before your committee today. I would be more than happy to answer any questions or to supply your committee with additional written information in the next few days.

Mr. RAHALL. Thank you, gentlemen.

Mr. Loeb, let me ask you one question.

In the event Congress were to adopt your proposal, wouldn't public school districts also have to comply with the ICC insurance requirements for interstate carriers?

Mr. LOEB. It is my understanding that is correct, yes. With the many school districts I have come into contact with in more than just the New York area, all over the Northeast, many of them have that kind of level of coverage in any case, and if they don't directly put it into motor vehicle, it is generally within their umbrella coverage for the whole school district. I can't say that as a blanket fact, but I believe it to be very common.

The other thing to consider is that given the possibility of having as many as 80 or 90 youngsters in a school bus at one time, the $5 million requirement for coverage certainly does not seem excessive in the least, but barely minimal, and I think that would help protect these youngsters should there be a serious situation. The exposure is greater on a trip crossing State lines in most cases, because it is likely there will be a higher speed on an interstate or national highway.

Mr. RAHALL. Thank you very much.

The gentleman from Wisconsin, Mr. Petri.

Mr. PETRI. Thank you very much, Mr. Chairman.

I do have a number of questions for Dr. Tatum. I wonder if I could ask some and submit the rest for written response from the witnesses in the interest of time.

You point out an interesting and perplexing challenge to us in this change of the rule. It may end up complicating law enforce-

ment in the drunk driving/alcohol abuse area rather than furthering it. I would just like to explore that with you.

Is the implication of your testimony that different alcohol products on the conforming products list of the Federal Government will give different results from each other?

Dr. TATUM. Yes, sir, that is correct. I have provided data in the package of materials that you have received that demonstrate that fact very definitely.

Mr. PETRI. And what about different models from the same manufacturers?

Dr. TATUM. Because manufacturers frequently employ different technologies in their models of their alcohol testers, different models from the same manufacturer will also provide different results when exposed to mixtures of alcohols.

To use an analogy, you can imagine the turmoil that would result to commerce if we use scales and balances that gave different weights when different models and different manufacturers' scales were used to manufacture the same products. That is exactly the same situation we are facing in breath alcohol testing.

Mr. PETRI. So in trying to secure convictions, you are saying this could complicate things if lawyers were alerted?

Dr. TATUM. I think defense attorneys will quickly pick up on this change in the legal definition of alcohol. I think they will press manufacturers and the Department of Transportation to the limit to see whether they have tested the accuracy of these alcohol breath testers on the very mixtures of alcohols that DOT has newly defined as being alcohol.

Mr. PETRI. Do you have any idea what process the Department of Transportation used to make such a substantive change in definition?

Dr. TATUM. The Department of Transportation inserted this into the final rule. It has not traditionally been the definition of alcohol that is used in local jurisdictions at the State levels. It is not included in the proposed rule. It slipped into the final rule without any opportunity for the public to provide comment on this new ruling.

We believe that the Department of Transportation did this in order to put certain technologies based on fuel cells into a more favorable light with regard to legal use in breath alcohol testing.

Mr. PETRI. I will submit the rest of the questions for the record, but what difference does all this make if all the people drink is ethyl alcohol?

Dr. TATUM. If the only substance that were taken into person's bodies was ethyl alcohol, it would make no difference, because the Department of Transportation tests devices for its conforming product list only on the basis of their response to ethyl alcohol.

However, when you become exposed to other volatile organic molecules such as these low-molecular-weight alcohols, through work that you do, through food and medications, through such things as even a back rub from a physical therapist with rubbing alcohol, these mixtures can lead to results which are false and misleading, because the device gives you a measurement that looks as if it were ethyl alcohol. That measurement is not accurate for other mixtures,

because those different molecules respond differently than ethyl alcohol does to these instruments.

Mr. PETRI. So someone arrested for drunk driving should say they were just driving from the massage parlor——

Dr. TATUM. I suspect that will be a defense that will be used if this new definition of mixtures of alcohol is kept.

Mr. PETRI. Thank you very much.

[Subsequent to the hearing, the following was received from Dr. Tatum:]

Questions by Congressman Petri for Dr. Roger Tatum after his testimony:
(Note: Questions are in boldface and each response directly follows)

1. **Are you saying different alcohol testers on the NHTSA conforming products list will give different results from each other when exposed to the same mixtures of "low molecular weight alcohol's" as defined in the DOT final rule?**

That is correct. As shown in the research data submitted as part of my written testimony today, various technologies of breath alcohol test devices--all of which are on the DOT CPL list--give widely varying measurements when exposed to the same binary mixtures of "low molecular weight alcohols" such as those defined in the DOT final rule. These test data were previously publicly presented at the International Association of Chemical Testing (IACT) annual convention in Denver in April of this year.

Can you imagine the confusion that would result in commerce and industry if scales and balances sold by different manufacturers--all on government approved conforming products lists--gave different weights when the same objects were weighed? And yet that is exactly the situation we are facing in alcohol breath testing of transportation workers under the altered definition of "alcohols" arbitrarily included in the DOT final rule.

2. **What about different models of breath alcohol testers from the same manufacturer?**

Because various models of alcohol evidential breath test (EBT) devices manufactured by the same company frequently use different types of technology, even different models from the same manufacturer will give widely varying responses when exposed to various mixtures of "low molecular weight alcohols."

3. **If different technologies yield different results on mixtures of alcohols, which technology gives the most correct result?**

As the test data submitted with this testimony shows, as long as breath samples containing only ethyl alcohol, water vapor, and possibly acetone (from diabetics) are measured on CPL-approved alcohol breath test devices based on fuel cell, gas chromatograph, or infrared absorption they can be expected to give equally accurate results when the EBT's are first calibrated with ethyl alcohol calibrator solutions.

However, once other volatile (easily evaporated) organic molecules are included, such as the "low molecular weight alcohols" included in the DOT final rule, the data clearly shows that different technologies give widely differing results that vary over more than a four-to-one ratio in some cases.

As the test data clearly shows, of the three technologies tested only gas chromatography-based EBT devices can correctly measure ethyl alcohol vapor in the presence of other volatile organic compounds because only gas chromatography EBT's first separate a complex mixture into pure compounds before measuring each pure compound separately.

4. **If this change in legal definition of "alcohol" only appeared in the final rule, by what process did DOT obtain approval for such a substantive change?**

Because DOT was mandated by Congress to develop the regulations that would govern alcohol breath testing of transportation workers, DOT acted as its own authority to establish the final rule. The normal process of submitting a proposed rule for a period of public comment was generally followed by DOT. However, in the specific matter of concern at hand--i.e., the legal definition of "alcohol"--DOT circumvented the public commentary process by only inserting the newly defined alcohol definition in the final rule. It was not included in the proposed rule document.

And yet DOT made this critical change in the definition of alcohol without ever conducting a single test of whether EBT devices on its conforming products list would give different response in the presence of alcohols other than ethyl alcohol.

Our appearance before you today is a direct attempt to get DOT to reverse its position and return to the historical definition of "alcohol" as either "ethyl alcohol or beverage alcohol" as was the case in both the enabling legislation voted by Congress and in the DOT proposed rule.

5. **Why is the fact that "mixtures of alcohol" give different results so critical to this legislation?**

According to the DOT final rule, the EBT device must function according to a "scientifically recognized method" and produce "accurate quantitative results." In order to be included on the DOT conforming products list, EBT devices are calibrated with ethyl alcohol only and are required to measure concentrations of "alcohol" within certain accuracy tolerances established by DOT. Based on the historical definition of alcohol as "ethyl alcohol or beverage alcohol" that law enforcement agencies in most states have used for decades since alcohol testing began, calibrating the EBT device using ethyl alcohol only was sufficient since "alcohol" meant ethyl alcohol exclusively.

DOT's recent move to alter the legal definition of "alcohol" to include "low molecular weight alcohols such as methyl alcohol and isopropyl alcohol," legally expands the number of compounds that the instrument must quantitatively and accurately measure. The fact that most EBT devices cannot measure samples containing more than one alcohol accurately will open the door for successful legal challenges on the basis that the devices were never designed nor are calibrated to perform the measurement task for samples that may contain mixtures of volatile organic compounds.

DOT is likely to contend that they never intended the final rule to mean that alcohol breath tests must measure compounds other than ethyl alcohol and that is why they calibrate the instrument using only ethyl alcohol. However, in the courtrooms of this country the fact that "alcohol" now includes other compounds in addition to ethyl alcohol will undoubtedly bring the accuracy issue under public scrutiny as it never was under the formerly more restrictive definition of "alcohol" as simply "ethyl alcohol or beverage alcohol."

6. **In legal challenges to breath alcohol tests of transportation workers, can't the court simply take the position that the U.S. Government has approved all of the devices on its conforming products list and thereby avoid the challenge?**

The federal government has rarely chosen to defend individual cases below the federal court level. With federal budgets increasingly constrained in the future, it is not likely that this track record will change. Consequently in litigation that will inevitably result from this change in the legal definition of alcohols, employers will be placed in the awkward position of attempting to defend, at the employer's own expense, the use of EBT equipment that cannot possibly produce quantitatively accurate results for the expanded definition of alcohols.

This will ultimately reduce public confidence in the well-intended breath testing portion of the Transportation Act. Eventually, the entire program may come under attack and lose the support of employees, their unions, and their employers. Public safety will then have been compromised at accompanying great legal expense. Now is the time to act to reverse this bad public policy decision in regard to changing the legal definition of "alcohol."

7. **Can't the federal government, through NHTSA and DOT, throw its weight in support of breath alcohol test results regardless of the technology or the exact results?**

Historically, in the courtroom only the "best available technology" will ultimately prevail against attack by attorneys who are motivated to see their clients escape discipline. Under this newly expanded definition of "alcohol," neither fuel cell- nor infrared-based technologies have any hope of proving that either is the best available technology for producing breath alcohol testing. Despite all efforts to the contrary, the analytical limitations of these technologies will be demonstrated--particularly given the new expanded DOT definition of "alcohol." Fuel cell- and infrared-based technologies are ultimately more defendable under the historical definition of "ethyl or beverage alcohol."

8. **Why is it important to have scientific accuracy for any substance other than ethyl alcohol since that is what everyone drinks?**

If ethyl alcohol were the only volatile organic molecule entering the human body, then ethyl alcohol would be the only substance of interest in physiological measurements. It is true that ethanol is the component of major interest due to drinking of alcoholic beverages. However, it is also true that other volatile organic molecules can enter the blood through involuntary inhalation or absorption through the skin. Sources of these potentially interfering volatile organic compounds include foods, over-the-counter and prescription medications, industrial and environmental exposure. If these potentially interfering substances give any response on an alcohol breath testing device they will be falsely interpreted as if they were caused by ethyl alcohol.

If the EBT device is specific for ethyl alcohol alone, as in the case of gas chromatography-based instruments, the presence of other potentially interfering volatile organic compounds is of no consequence since the gas chromatograph EBT will not make a false interpretation of their presence. However, if the EBT device is non-ethyl alcohol specific, which is the case for all fuel cell- and infrared-based EBT devices, then inaccuracy of the measuring device contributes to uncertainty in the measurement of ethyl alcohol in the breath.

Expanding the definition of alcohol to include "low molecular weight alcohols such as methyl alcohol and isopropyl alcohol" unnecessarily complicates the measurement process since the EBT device must now be calibrated in such a manner as to give "accurate and quantitative results" for each of these alcohols. This is a requirement that no fuel cell- or infrared-based EBT device currently on the DOT conforming products list can possibly meet. And the fact that DOT has never tested calibration or accuracy for any alcohol other than ethyl alcohol leaves any employer conducting alcohol breath tests on any of these devices vulnerable to legal liability. This despite the fact that such EBT devices were purchased in good faith from devices appearing on the DOT CPL list.

9. **Are there documented court cases where such inaccuracy from interfering substances, other than ethyl alcohol, has changed the legal outcome?**

Indeed there are. But in law enforcement cases the effect of such "false positives" is of no consequence since the case against the defendant is simply dropped by the district attorney and the defendant's driving record remains clear. Since drunk driving cases take place away from the defendant's work and community environment, other interested persons have no knowledge of the defendant's arrest, court case, and subsequent dismissal. There is virtually no liability responsibility for the law enforcement agency under such circumstances.

In the case of testing of transportation workers, however, measurement inaccuracies that result in "false positives" will result in mandatory suspension of drivers, in disciplinary action by employers, and may result in loss of employment in severe or repeat offenses. "False positives" in workplace testing of transportation employees will have severe employment consequences. Legal exposure of employers, of EBT manufacturers, and of contracted agents who conduct alcohol breath tests will be far greater. Persons threatened with loss of livelihood, or even loss of reputation among their fellow workers, will be far more likely to bring liability suits against those who conduct alcohol breath tests and incur inaccuracies in alcohol measurements as a result of the DOT redefinition of alcohols.

Broadening the legal definition of "alcohol," as arbitrarily performed by DOT in its final rule, simply expands the opportunity for such liability suits to be successful against those employers who are honestly attempting to comply with the law. The subsequent loss of confidence in the Transportation Act will lead to a reduction in public safety rather than the increase in safety intended by the Congress.

10. **Since all of these "low molecular weight alcohols" are intoxicants, why not simply measure the total sum of all alcohols?**

This would be a viable idea if all low molecular weight alcohols behaved the same physically and chemically. However, each different type of alcohol molecule has a different intoxicating ability on the human body. Each molecule is a different size and weight and differs in its ability to evaporate (i.e., its volatility) from the blood into the breath in the lungs. Each molecule creates a different response (sensitivity) in the detector. In addition, different types of detectors (fuel cell, gas chromatograph, infrared absorption) each give different responses to the same concentration of non-ethyl alcohol in the breath.

Since most of these variabilities from molecule to molecule have not been investigated scientifically for fuel cell- and infrared-based EBT devices, it is impossible to simply take the total response of the device as being in any way directly related to the sum of all the alcohols present in the breath sample. Unfortunately, the DOT redefinition of alcohol is based upon the false assumption that all "low molecular weight alcohols" behave identically in both their physical and chemical properties.

11. **I can see how false positives can occur from interfering substances, such as low molecular weight alcohol's but how is it scientifically possible for a false negative to occur?**

In the case of fuel cell-based EBT devices, for example, isopropyl alcohol is chemically reacted at a faster rate than ethyl alcohol in the fuel cell, whereas methyl alcohol chemically reacts somewhat more slowly than ethyl alcohol molecules. The exact measurement of the fuel cell voltage dependents upon what time the measurement is taken. Fuel cell-based EBT device manufacturers design their devices to take the measurement at a time that has proven to give the most accurate results when ethyl alcohol vapor is the only volatile organic molecule present in the sample. This is why the units are always calibrated using ethyl alcohol alone.

In the presence of other low molecular weight alcohols, the voltage built up on the fuel cell electrodes may develop at an overall slower rate than when ethanol alone is present. This may result in a lower reading for a mixture of alcohols than if ethyl alcohol alone were present. A "false negative" may consequently be measured for such a mixture of alcohols.

For infrared-based EBT devices, the instrument relies on measuring the absorption of a beam of infrared (IR) light of at least three different wavelengths--one primarily for ethyl alcohol, another primarily for water vapor, and a third primarily to reduce interference from acetone vapor that may be present in the breath of diabetic persons. Taking three measurements at three different wavelengths and solving the resulting mathematical equations (by a process known as simultaneous equation solution) permits calculation of the concentration of ethyl alcohol in the breath.

Unfortunately, the presence of other volatile organic molecules disturbs the correct solution of the simultaneous equations and leads to erroneous results which may lead to false positives or to false negatives dependent upon the exact design of the infrared-based EBT device.

Consequently, it is impossible to correctly measure the concentration of ethyl alcohol alone or of the sum of the alcohols present, when other volatile organic molecules, such as low molecular weight molecules are also present in the breath sample.

12. How big of a problem can it be when occurrences of false negatives and false positives will be in the minority?

Even though the actual occurrence of false negatives or false positives may only be a small percentage of breath alcohol measurements, the resulting cost of litigating liability claims is staggering in addition to the demise of reputation of the persons affected by such inaccurate measurements. Also, the loss of public confidence in the alcohol breath testing program may lead to reduction in public safety on the highways of our nation. It doesn't take many cases of false accusations to undermine public confidence. Unfortunately, the redefinition of alcohols instituted by DOT in its final rule will result in increasing the frequency of such inaccurate results and increase the number of legal liability cases in this nation's courtrooms.

13. How has law enforcement traditionally dealt with this in the past?

As mentioned in a previous question, courts involved in law enforcement have the option of simply dismissing a case where interfering substances may have contributed to inaccurate measurement of breath alcohol. Such will not be the case with transportation workers since deleterious affects on the careers and lives of transportation workers can be claimed in far more instances. Consequently, merely dismissing a case before any harmful consequences occur is a luxury that transportation testing cannot afford.

14. How can breath alcohol testers that cannot distinguish between alcohols be approved by NHTSA for use in the final rule when they have not been tested by NHTSA for their accuracy in measurement of "low molecular weight alcohols?"

DOT and NHTSA were in a position to make the rules for the procedures in the final rule. They simply arbitrarily made this change in legal definition of alcohol without due consideration of the final consequences. Unfortunately, since the public comment process was not possible on the final rule, and DOT chose not to laboratory test the possible consequences of change in the proposed rule, due process was denied in this case. It is our position that invoking such a fundamental change in definition without first performing any study of its effect on products already on the DOT conforming products list will lead to inaccurate and false measurements that will ultimately undergo legal challenge.

15. Is it possible for a transportation worker to be impaired by a mixture of alcohols, let's say he had drinks and was also exposed to another alcohol, and be tested negative?

Yes it is. As discussed in a previous question, since fuel cell- and infrared-based EBT devices were never designed nor calibrated for use with mixtures of alcohols, it is possible to obtain an apparent alcohol reading that is smaller than that of ethanol alone due to the method that these EBT devices use to determine their readings which are time or wavelength dependent. In our laboratory we have obtained such a result for a fuel cell based EBT that appears on the DOT conforming products list. For example, a rubdown conducted by a physical therapist in which rubbing alcohol is used can cause isopropyl alcohol to be absorbed into the blood either through involuntary breathing of the vapor or through skin absorption. Such a mixture of ethyl alcohol and isopropyl alcohol may give a reading less than the actual concentration of ethyl alcohol in the breath.

16. What does it mean in the final rule "scientifically recognized method that produces quantitative results?"

Whatever method used for performing breath alcohol measurements must be able to withstand scrutiny from the scientific community in order to be evidential for court purposes. The results of such tests must lead to numerically accurate quantitative results and not merely change color of some other indication of the mere presence or absence of alcohol.

Prior to the change in legal definition of "alcohol" which the DOT imposed, EBT devices incorporating technologies based upon fuel cells, gas chromatography, or infrared absorption could all meet the "scientifically recognized method" test of the final rule.

Gas chromatograph-based EBT devices can certainly meet the "quantitative accuracy" test for both the historical and "new" definitions of alcohol as seen from the data submitted to this committee with my written testimony. Based on law enforcement experience, infrared-based EBT devices met the "quantitative accuracy" test under the historical definition of "alcohol." Whether IR-based EBT's can adequately withstand legal scrutiny under the "new" DOT definition of alcohol remains to be seen due to IR device's necessity for solving simultaneous equations.

Based on law enforcement experience, it is very questionable whether fuel cell-based EBT devices will successfully withstand legal challenge due to their non-ethyl alcohol specificity and their lack of having been calibrated and tested for mixtures of "low molecular weight alcohols."

Data accompanying the written testimony to this committee clearly shows that only gas chromatography-based EBT devices accurately quantify ethyl alcohol when in the presence of mixtures of "low molecular weight alcohols."

17. How does the current interpretation of this by DOT differ from the interpretation of the same statement for the drug rule?

Drug testing requirements adopted by the federal government for use with any of its agencies and for the armed services branches permits the use of a variety of different technologies for conducting "screening tests" for drugs of abuse. Any such screening test must be followed by a subsequent "confirmatory test" that must be based upon gas chromatography/mass spectrometry (GC/MS) technology. GC/MS is mandated because it is the "best available technology" for avoiding the possibility of false positive results in drug tests.

DOT, on the other hand, decided that in the case of breath alcohol testing the same technology devices--indeed the exact same unit--could be used for both screening and confirmation of breath alcohol tests. This decision was in order to ease the cost burden that must be born by employers under the final rule. The only requirement is that the EBT device(s) used for screening and for confirmation be on the DOT-approved list of conforming products.

The bad news is that since the same EBT device may be used for both screening and confirmation, any measurement error or inaccuracy is liable to be as great for the confirmation test as for the first screening test. While economically understandable, this failure to use "best available technology" to avoid errors in measurements is liable to lead to a greater number of court challenges to the testing program and to far greater liability for employers. Unfortunately, the employer is caught in the middle. Employers must comply with the law and don't dare to fail to discipline an employee who flunks the alcohol breath test for fear of liability if any driver in an unsafe condition were to have an accident. The employer also faces liability from employees and from their unions if transportation workers are falsely accused of being under the influence of ethyl alcohol.

Unfortunately, the recent DOT change in alcohol definition in its final rule adds additional uncertainty to the accuracy and fairness of test results performed on EBT devices that cannot possibly accurately measure mixtures of "low molecular weight alcohols." Consequently, the only safe course for employers is to use EBT devices that incorporate the "best available technology" as prescribed by the federal government in the case of performing confirmatory tests for drugs of abuse.

18. **Can breath be tested with a gas chromatograph like they do in the drug rule with blood and urine for positive drug confirmation?"**

Just as gas chromatography/mass spectrometry (GC/MS) is the best available technology for confirming positive drug of abuse tests due to its extremely small likelihood of yielding false positive results, gas chromatography-based confirmation is clearly the best available technology for conducting confirmation tests for breath alcohol. As the data submitted with the written testimony for this committee clearly shows, only gas chromatography can give consistently accurate results in the presence of a mixture of volatile organic compounds.

Mr. RAHALL. We do have a vote, so the subcommittee will stand in recess to answer this roll call vote on the Floor.

[Recess.]

Mr. RAHALL. We will now hear from a panel consisting of Mr. Joel Todd Spencer, Treasurer, Owner-Operator Independent Drivers Association, Green Valley, Missouri; Mr. Dorsey Musselman, President, Central Pennsylvania Independent Truckers Association, and Board Member, Owner-Operator Independent Drivers Association, Bedford, Pennsylvania.

Gentlemen, we have your prepared testimony. You may proceed.

TESTIMONY OF J. TODD SPENCER, EXECUTIVE VICE PRESIDENT, OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION INC.; ACCOMPANIED BY JOHN BOWSER AND DORSEY MUSSELMAN, PRESIDENT, CENTRAL PENNSYLVANIA INDEPENDENT TRUCKERS ASSOCIATION, AND BOARD MEMBER, OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION

Mr. SPENCER. Mr. Chairman, Members of the committee and committee staff, my name is Todd Spencer. Also with me is John Bowser, another real world trucker from Central Pennsylvania. Both John and Dorsey are along today to provide basically expert views, expert commentary on the real issues in truck safety. Both of these gentlemen drive trucks for a living.

From our perspective, every truck proposal, safety proposal, initiative will never be successful, will never produce results if it doesn't have the support of the people behind the wheel. Those are the safety experts we consult with regularly.

OOIDA, a nonprofit corporation incorporated in 1973 under the laws of the State of Missouri with its principal place of business in Green Valley, Missouri. The more than 29,000 members of OOIDA are small businessmen and women residing in all 50 States and Canada who collectively own and operate approximately 30,000 individual heavy-duty trucks and small truck fleets.

Small business truckers represent nearly half of the total number of Class 7 and 8 trucks operated in the United States. OOIDA is the national trade association representing the interests of independent owner operators, smaller motor carriers and professional drivers at both the Federal and State levels.

OOIDA has long been a proponent of steps to improve safety of equipment and drivers. We offer our views here in order to bring to the attention of the committee three areas where the association believes that motor carrier safety can be significantly enhanced.

Mandatory driver training is urgently required. Greater uniformity and enforcement will promote safety. Truck length and weight need to be addressed to enhance safety.

I will make brief comments today on the first two points.

OOIDA believes mandatory standardized training of entry-level truck drivers is long overdue. Data regarding the role of training as a cause of accidents is not available. One statistic that is available shows how important the level of training actually is. This statistic, which is available from the fatal accident reporting system, shows that 72 percent of the interstate drivers involved in fatal crashes in 1988 had been with their current company for three years or less.

This tells me that there is a strong correlation between experience and involvement in crashes. Intuition also tells me entry-level training will result in increased highway safety.

The experience of motor carriers that have implemented substantial training programs underscores the benefit of added training. The Office of Technology Assessment cited rigorous training as a means of attaining an accident rate one tenth the national average.

It reported a 14 percent decrease in long haul accident frequency, despite a 38 percent increase in long haul mileage. This represents a 19 percent decrease in accidents.

If the experience of this motor carrier is typical of the benefit that can be realized from proper training and a 14 percent decrease in accidents is achieved through uniform mandatory training for all entry level drivers, the results are outstanding. In 1988, there were an estimated 331,000 crashes involving medium and heavy trucks. Of these, 4,893 resulted in fatalities while 80,500 resulted in nonfatal injuries.

In addition to a cost saving of $6.6 billion in crash-related medical expense, a 14 percent reduction in these crashes would result in 46,340 fewer crashes, 11,270 fewer injuries, and 685 lives saved.

In today's environment, motor carriers are eager to recruit drivers to drive trucks. If they must train them in order to put them on the road, they may do so. However, in most cases the training given by the motor carrier will most often be as brief as possible and include only the bare essentials necessary to put the driver on the road so that he or she can generate revenue.

Further, the high turnover rates in the trucking industry provide a disincentive for carriers to properly train. A document recently obtained by OOIDA illustrates the potential lack of proper training in one of the most vivid examples imaginable.

We have given the subcommittee an internal memorandum from the North American Van Lines, one of the largest motor carriers in the country. It is a schedule for new entry drivers recruited from Grenada. According to the memo, the recruits arrived in the United States less than two months ago without a regular driver's license. They are training and testing for a regular automobile license within five days of arrival and, assuming that they pass their final examination, they have been driving 80,000-pound trucks in the United States for more than a month now.

Perhaps more importantly, following receipt of the regular driver's license, they are given a cram course on the skills and knowledge portion of the commercial driver license that lasts a total of only 16 days. It is also the association's understanding that NADL is an authorized third-party tester in the State of Indiana, and therefore the Grenada students that are recruited by NADL and trained by NADL are tested by NADL vehicular staff as well.

Following this training and testing, and only 24 days after beginning the process, a driver receives tractor delivery and dispatch, and presumably is fully licensed to drive anywhere in the United States.

This is particularly shocking when one considers a student that has lived all of his or her life in the island culture of Grenada suddenly confronted with the freeway system of Chicago, New York,

Los Angeles, or any other American city, or the winter driving conditions that frequently occur in the spring in the Rocky Mountains.

Greater uniformity of enforcement will promote safety. Despite the fact that they operate in interstate commerce, owner-operators are faced with a dizzying array of differing and often conflicting regulations. The issue of uniformity has been an item for discussion at the Federal level for at least 15 years, with the Federal Government preferring to move toward voluntary uniformity without the need to use Federal preemption.

While there have been a few limited successes, this effort has largely failed. Following partial deregulation of the trucking industry in 1980, the Congress created a Federal program known as the Motor Carrier Assistance Program to encourage the States to develop their capacity to perform commercial vehicle inspections. The program has grown dramatically, with Federal grants for the current fiscal year totaling approximately $65 million. As a result, there were more than 1.8 million commercial vehicle inspections performed by the various States last year.

Unfortunately, the rise in truck inspections coincided with the shift in raising new taxes away from the Federal Government and back to the States. Faced with in-State citizens that did not wish to pay increased taxes and a constitutional prohibition against directly taxing interstate commerce, many States have found that enforcement of commercial vehicle safety regulations is a lucrative source of income.

Further, local jurisdictions are trying to get their share. Examples of this are even finding their way into the media.

When a truck weigh station in Missouri was closed for four days a few years ago, the chairman of the county school boards criticized the State authorities for loss of revenue that goes to the school system. In Tennessee the public service commission decided to establish an additional truck weigh scale. A press report chronicled an intense fight between two counties as to the location of the scale—based on the revenues and court costs that it would generate for the favored county.

A very recent report indicated that the mayor of the town of Bedford, Pennsylvania, while lamenting his city's budget crisis, stated that truck safety enforcement would be a lucrative source of new revenue when the weather warms up.

In addition to zealous enforcement, some States raise the level of fines for truck safety infractions to an almost confiscatory level. The State of Maryland has enacted a State law which requires a fine of $1,005 for an infraction found in the driver's daily log. This fine is merely for a paperwork violation. This raises justifiable questions among truckers as to whether enforcement is directed toward public safety or revenue generation.

OOIDA believes that Congress must act to set a ceiling on fines that can be charged for violations of what are in effect Federal violations.

Truck length and weights need to be addressed to enhance safety. With the advent of the national highway system, we believe now would be an excellent opportunity for specific requirements on truck size. Specifically, we believe truck weights and lengths should be frozen until legitimate safety data is available on the re-

lationship between increased vehicle sizes and weights in highway safety.

Thank you very much for the opportunity to share our views today, the committee, the Chairman, the staff.

Dorsey, would you like to add some comments?

Mr. SHUSTER [presiding]. Go ahead.

Mr. MUSSELMAN. Thank you, Mr. Shuster.

Some of the things we have been hearing today are really real life, in the problems facing us, in the area we need help. I would just briefly like to hit on a couple. The last one I think is number one.

We started this morning with the problem with the Beltway. I just hate to drive that Beltway. Everybody wants to do something about that. Everybody put us in the wrong lane. We can't get into the lane where we belong. Get us away from the accident area. That is why we are causing the accidents. We are where the accidents are. That is a backwards approach.

I heard here today, cover all loads. I can't believe anybody would even talk about all loads. And I heard about covering an auto hauler. I would like to see how you would keep a tarp on it. There is no bottom in those trailers. It would definitely make it unstable.

Up in our area, from my experience hauling pulpwood, if you have to cover pulpwood loads, this would be so time consuming it would probably close the paper mill down.

Those kind of things for us to comply with are unrealistic. We couldn't do it. Certain loads, yes. I mean, sand and gravel, most of the coke haulers now have automatic tarpers. As you pull away from the bin, you push a button on the truck and that thing will cover itself. You don't even crawl out.

Those kind of loads, it is no problem covering. But a 40,000-pound haul, you are better off not to tarp it. If it is tarped, you can't see if it has changed or loose.

So there have been some good things offered here today, but a lot of unrealistic things, which we talked about in our trucking organization from day one.

And the roadside inspections, they certainly turned them into revenue. A revenue writing ticket, it is horrendous.

Everybody here today wanted to fix our brakes. And we have been hearing this and we have been hearing this. If my brakes on my truck are properly maintained like I try to keep them, and you drive anywhere at all within reason, you have more brakes than you need. We don't have a brake problem as far as no brakes. We have plenty of brakes if things are applied right. No matter what system you have, if you don't apply it right, you have got nothing.

Finally, in the driver training, I really think, you know, we all have to start somewhere. When I started over the road in 1960, the trucks didn't run very fast, there were no freeways, there was no traffic out there. What did it hurt if you made a mistake or two? Today on these freeways, especially on the Beltway or any of these metropolitan areas, one small mistake, you have got a catastrophe on your hands.

And we are not giving the drivers much training today as we used to. I mean, we used to—a couple of weeks, maybe you could train a driver. Today, in two weeks, nine out of the 10 days will

be spent in paperwork. They put the man in the truck, and there he goes. So I can see accidents there.

So those are the areas that we are asking the Congress or we think you can be most helpful in solving some problems for us so we can be more effective and do a better job also.

Thank you.

Mr. SHUSTER. Thank you very much.

John Bowser, do you have anything to add to that?

Mr. BOWSER. First of all, I would like to thank you for letting me have this moment with you, Mr. Chairman, Mr. Shuster.

I just want to add to Dorsey's Beltway situation. My outlook on that is, yes, we should be in the left lane, because the right lane is where the traffic is coming on and getting off, like coming down 95, to come down 95, I know I am going to stay on 95 for 30 miles, okay? Why have us over there on the right lane where the traffic is coming on and getting off? Instead of restricting us, I think you ought to be forcing us to the left lane.

And also, the cost of lines and the DOT inspections. I was in Indiana a few months ago and I was pulled over for a DOT check. Everything on my trailer was brand new. The officer said, It looks fine. Then he found a broken U-bolt, and this broken U-bolt, he wrote down a $130 fine. It cost me $250 to get it fixed. But the reason—my complaint is, the reasoning behind the fine was poor vehicle maintenance.

That is all. And everything was new. And he wrote me up for poor vehicle maintenance. Thank you.

The CHAIR [presiding]. Thank you very much, Mr. Shuster.

I appreciate Mr. Spencer, Mr. Musselman, and Mr. Bowser being here.

Mr. Spencer, in looking at your statement, and I apologize for not being here when you made the presentation, but in looking at your statement, you talk about the driver shortage, and yet at the same time you don't feel that the testing under the commercial driver license law is adequate for training drivers.

And I am wondering if you could sort of lay out for me what is wrong with the CDL program in its efforts to train drivers.

Mr. SPENCER. Well, the CDL at best would be minimum standards, minimum requirements. We have watched—and our organization was involved in one of the groups—the consensus groups that shaped the CDL legislation and helped push it through. But what we have watched, the trends in training, since the CDL, is now just about every training program for a commercial driver has abandoned everything other than training specifically to get a CDL. Where there used to be training schools with eight-week programs, now they have cut those all the way back to two weeks or less, because all they need to do is get a driver a CDL and he is turned loose on the road.

The advanced training requirements that we have advocated, that the Federal highway has advocated through their model driver training curriculum, you know, greatly exceed that, and that is still entry level. It takes a lot of time, it takes a lot of training before somebody is ready to be turned loose with a commercial vehicle.

We are kind of caught in a Catch-22 situation in our industry in that, yes, we hear much about driver shortage, and I know it was

mentioned here today, and we acknowledge that, but the bigger problem that the trucking industry faces is a retention problem.

We have literally cranked hundreds of thousands of drivers through our industry, in and out, and done that on a regular basis for years now, simply because the work is hard, the job is demanding, the rewards are not there, and trucking companies have been reluctant to make the investment in their people. Their most precious resource will be the operator of the vehicle. And they have been very reluctant to make any kind of investment in that area.

You know, based on—during my comment I mentioned the newest method for North American Van Lines, to resolve their driver shortage issue, and we are talking about recruiting from other countries, yet North American Van Lines will have a driver turnover problem that is at least 200 percent. And it is common in our industry.

So we have good people, we have had good people, we can attract good people, but our industry can't keep them because of the rewards that it offers. And we have to address that problem. And it is in the interests of the people, but it is also in the interests of safety to do that, because turnover causes problems, causes accidents, and it impacts safety.

The CHAIR. Mr. Spencer, let me ask you, when you were talking about, let's say, that eight-week course or whatever it might have been before, what would be the cost of that eight-week course that might have been given before?

Mr. SPENCER. Customarily in the area of $3,000.

The CHAIR. And now let's say it is down to, I don't know, two or three weeks, just to qualify, get the person qualified for the commercial driver's license test, now that it is two or three weeks, what is the cost of the program?

Mr. SPENCER. It is probably anywhere—from $1,500.

The CHAIR. So they reduced the training period down to two or three weeks just to gear people to the CDL test?

Mr. SPENCER. Sure. There is really a strong, strange correlation between the amount of fees charged for driver training and the amount of money that was available through guaranteed student loans for a number of years. They matched very, very closely, and of course, again, it is a matter of—there is obviously nothing wrong with providing funds for training, education, to actually start someone on a new career, a new profession, but that has not been the case in trucking since deregulation.

Basically these programs have been used as kind of business welfare to provide subsidies for certain companies for the first six months or so, and then by six months, many of these students that have received guaranteed student loans go on down the road, because trucking is not the life for them.

The CHAIR. You say there is a high turnover with a lot of these trucking firms. Let me ask you, Mr. Musselman, you are an independent owner-operator, how long generally are you out on the road typically?

Mr. MUSSELMAN. Well, now, I am more of a short haul. I mean, for me to be gone more than a second night, and I have always worked that night. John, he likes to work California. I call the

West Coast, Coyote River, Cleveland. I have never spent a weekend in 34 years away from my wife.

The CHAIR. Mr. Shuster feels the same way about it.

Mr. MUSSELMAN. It is good country there.

A comment might be constructive in this. This weekend I told the guys coming over here, We are going to cure the unemployment problem in Bedford. I jokingly said that, because we are hosting our 11th annual trucker weekend. We get quite a turnout. Every year we got one, two, and maybe three companies coming in to recruit drivers, which is fine. I shouldn't even say this, they might get mad at me, it is the truth. This year the driver shortage is so great that we got 11 carriers coming in recruiting drivers. They are going to promise them all kinds of things that ain't going to happen, and they always have people, and in a couple of weeks after they are out on the job, those people become disoriented, they are going to be cussing me because they met them at the truck show. It is a no-win situation. And some of these carriers, we have got carriers coming up for a good many years, been doing a pretty good job, but someone comes in, and I am sure this year there is going to be a lot of competition there, and if you pass through there and know anything about the life of truck drivers, you are going to hear promises, you might want to take a job driving trucks based on what you hear.

It is a bad situation. There should be regulation on how we become truck drivers.

The CHAIR. Mr. Spencer, Mr. Bowser mentioned about these excessive penalties. You claim that the States in some instances will assess large penalties for infractions of the motor carrier safety regulations, and that you want to bring these penalties into line by saying, if the States' fines are too high, then the States risk losing some of their MCSAP funds.

I am wondering if you had an opportunity to talk to any of the States about that kind of a possibility if that were to be considered.

Mr. SPENCER. Well, we work with the Commercial Vehicle Safety Alliance, the officers, the enforcement officers that are there. Oftentimes what we run into is enforcement people are given the MCSAP revenues, MCSAP funds to go out and conduct *x* number of inspections, and they have the numbers that are there, oftentimes a particular individual or individual agency that writes a citation isn't necessarily a beneficiary of the revenues they receive, such as the California Highway Patrol.

The State sets minimum levels of fines, but the local community is actually the entity that reaps the rewards. In my home State of Missouri, it is the school system. In Michigan, it is the library system. It virtually makes no difference who the actual recipient of the revenues is.

There will always be pressure on enforcement to write citations, and collect revenues, because somebody benefits. If the beneficiary can get back to the source, they are going to want you to do more of it. And from our perspective, it is a political hot potato at the State level as well, because of all the revenues that are involved.

We believe since the regulations themselves are Federal regulations that States enforce, since the program is funded through mix and Federal dollars, there also should be a condition along with

that that lays out some specific guidelines as to how this program can work, and that a fine level that is not outrageous should be something that is reasonable and correspond right along with that.

The CHAIR. Very well. Thank you very, very much.

Mr. Shuster, do you have any further statements or questions?

Mr. SHUSTER. Just one question. Would you support the CVSA line schedule being adopted nationwide?

Mr. SPENCER. I worked on the particular committee that developed that fine schedule, and most truckers that I talk to believe even that fine schedule is too high, and that they generally believe the key area to spend money on is to repair the vehicle, to improve safety. And, you know, any revenues that are for another source, they don't see where it is especially productive in increasing safety.

If the best we can do is the uniform sanction schedule for recommended maximums, our organization would and does support that. But the key being, from our perspective, take safety dollars and actually convert them into safety rather than penalties.

In too many areas in trucking we have big penalties that we presume will have a deterrent effect. But the problem is they never get to the parties that are responsible for creating the situation or resolving the situation. So we just have a penalty unfairly applied.

Mr. SHUSTER. Thank you very much.

The CHAIR. Thank you very much, gentlemen.

There being no further business before the Subcommittee on Surface Transportation, the subcommittee will stand adjourned.

Thank you very much.

[Whereupon, at 3:40 p.m., the subcommittee was adjourned.]

PREPARED STATEMENTS SUBMITTED BY WITNESSES

Private Fleet Management
PFMI INSTITUTE

NPTC

Private Carrier

NATIONAL PRIVATE TRUCK COUNCIL

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Statement of

Gene S. Bergoffen

President & CEO

National Private Truck Council

on

Truck Safety Oversight

before the

Surface Transportation Subcommittee

of the House Public Works Committee

Washington, D.C.

June 14, 1994

Gary Putman, Chairman
Amoco Oil Company, Chicago, IL

Ed Johnson, Vice Chairman
The Dovey Tree Expert Company, Kent, OH

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Tom Rogers, Treasurer
WestPoint Stevens, Inc., West Point, GA

INTRODUCTION

The National Private Truck Council (NPTC) is the national association of manufacturers, processors, distributors, retailers and service companies that operate truck fleets in support of their commercial activities. NPTC's membership comprises approximately 1200 national and regional corporations, and includes many of the Fortune 500 companies.

Collectively, private, or "corporate" truck fleets haul more than half of the nation's truck freight, and operate 80 percent of the nation's commercial vehicles.

NPTC believes, as a matter of philosophy, that government actions involving the safety of commercial motor vehicles should be based, wherever possible, on performance criteria, while allowing fleet operators maximum flexibility in meeting those criteria. We also believe, given limited resources for enforcement, that government actions should be geared toward "working smarter, not harder" by focusing enforcement attention on those fleets, as well as those elements of accident causation that "need it the most." Our comments today will reflect these philosophies. We offer several examples of current or prospective government initiatives which we believe meet the test for appropriate government involvement and several which we believe do not.

ZERO-BASE REGULATORY REVIEW

An example of government regulation at its best is the Federal Highway Administration's

(FHWA) "zero-base review" of the Federal Motor Safety Carrier Regulations (FMSCRs). This initiative seeks to review the existing regulations to determine whether they are rational and justified, understandable, worthy of implementation, performance-based, enforceable and, most importantly, actually enhance safety and reduce accidents.

We wish to commend the Office of Motor Carriers and its new Director, George Reagle, for their continuing strong commitment to this effort. The zero-base review reflects both the desirability of performance-based criteria and the concept of working smarter, not harder. It is an excellent example of a meaningful effort to "reinvent government" in a way that provides the greatest safety benefits while minimizing regulatory burdens.

For example, as a part of the zero-base review, NPTC has asked FHWA to evaluate whether the existing FMCSRs should continue to be applied uniformly to all types and configurations of commercial vehicles. Commercial vehicles come in a variety of shapes and sizes, with varied operating characteristics and vocational uses. Currently, the regulations come in "one size fits all." It may not make sense to apply the same regulatory scheme to a 12,000 pound snack food delivery vehicle as is applied to an over-the-road vehicle with a gross vehicle weight of 80,000 pounds. We believe the regulatory outcome should be based on the safety performance experience of these different types of vehicles. The zero-base review provides a mechanism to address this issue.

We urge the members of this subcommittee to support the zero-base initiative.

INTELLIGENT VEHICLE HIGHWAY SYSTEMS

Better use of data to identify problem carriers and drivers and improve motor carrier safety, particularly through use of Intelligent Vehicle Highway Systems (IVHS) technology, is another means to achieve performance based safety management in a more cost-effective manner.

NPTC has been very much involved in bringing the benefits of IVHS to fruition. We are participating in ongoing demonstration and developmental projects relating to IVHS Commercial Vehicle Operations (IVHS/CVO).

From our standpoint, the greatest potential benefit to be derived from IVHS/CVO is implementation of a nationwide commercial vehicle network, where trucks can voluntarily travel the nation's highways just as cars do, without stopping at state borders and weigh stations. Vital safety and other regulatory checks can be made automatically and without delays. This promises the multiple benefits of lower cost safety enforcement while lowering transportation costs and improving productivity.

However, there are barriers to overcome in putting such a system in place. The most difficult of these is <u>not</u> the technology which in large part, already exists. The real

challenge resides in what we call "institutional barriers." This refers to the insistence of many states, and agencies within those states, in doing things their own way at the expense of the greater good. A strong federal involvement will continue to be needed to break down these walls.

This subcommittee has provided strong leadership and support for IVHS. We ask that this continue.

PREMIER CARRIER PROGRAM

It seems obvious that the best way to measure commercial vehicle safety performance is by looking at the number and severity of accidents involving commercial vehicles. Unfortunately, our regulatory scheme does not always reflect this. With this in mind, NPTC would like to direct the subcommittee's attention to the so-called "premier carrier program," another FHWA effort, and other programs like it that recognize safe carriers. The concept is simple: Identify fleets which have demonstrated superior safety records so that limited enforcement resources can be focused on those fleets that pose the greatest public risk. In order to be eligible, fleets would need to maintain minimum FHWA safety performance standards. As an incentive to participate, fleets could be offered the incentive of uninterrupted, over-the-road service through electronic clearance, thereby avoiding time consuming waits at weigh stations and during roadside inspections. Premier carriers would continue to be subject to random inspections and audits. We ask the subcommittee

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to lend its support to this important initiative.

CONSPICUITY RETROFITTING

We would also like to provide you with some examples of what we believe are inappropriate government responses to truck safety issues. We direct your attention to a recent rule proposed by FHWA to require retrofitting of trailers with reflective material to enhance "conspicuity." This proposal follows on a National Highway Traffic Safety Administration (NHTSA) Final Rule requiring a very specific type of conspicuity application for new trailers. While NPTC supports efforts to improve nighttime visibility of trucks and our members have been leaders in voluntarily applying reflective material to trailers, we opposed the NHTSA Final Rule because it is neither performance-based nor flexible. It attempts to micro-manage safety by prescribing the precise design and color scheme which must be used. Many NPTC fleets utilize trailers as "rolling billboards." In many cases these treatments exceed the luminosity achieved by the NHTSA Final Rule. As such, they are among the most "conspicuous" trucks on the road. The logos, graphic schemes and colors on these trailers are seriously compromised by the NHTSA Final Rule.

Although FHWA is being more reasonable in its proposal, if it decides to adopt the NHTSA standard, it will cost companies significant sums to remove existing conspicuity treatments on trailers in use when there is no evidence to indicate their treatments do not

increase visibility and reduce accidents. NHTSA's standard does not meet the criteria for effective regulation which the Department of Transportation (DOT) has itself developed for the zero-base review; i.e., it is neither rational nor justified, is not performance-based and is not flexible in its approach as it is not the only way to achieve a reduction in accidents. We believe that DOT's goal should be to increase trailer visibility and recognition, not to mandate a particular type of application or design.

MANDATORY DRIVER TRAINING

There are those who have called for mandatory entry-level training for operators of commercial vehicles and would have the government prescribe a specific training curriculum. NPTC opposes mandatory federal standards for training of entry level drivers of commercial motor vehicles. We believe that the existing Commercial Drivers License (CDL) program provides a performance standard which is the appropriate means to ensure that entry level drivers are qualified to be commercial vehicle operators. As long as the CDL performance standard is adequate, it is unnecessary and unwise for the federal government to specify the kind and amount of training.

We believe the sentiment for federal training standards is grounded on the well-meaning, but flawed premise that a federally mandated and standardized training regimen is the best means of improving the safety of entry level drivers. NPTC believes that the public, the drivers, and industry would be far better served by redirecting the focus to

performance outcomes (i.e., the skills and knowledge proficiency of the entry level driver). The real question is: "Is this individual capable of safely operating a commercial motor vehicle?" Training can certainly be an important, and perhaps critical, means to this end, but should not be viewed as an end in itself.

We believe that the appropriate way to assess performance outcomes is through performance testing. We have such a test for entry level drivers in the form of the Commercial Drivers License (CDL) program. The CDL, as currently implemented, is adequate to demonstrate that a driver has the minimum knowledge and skills required to be a safe commercial vehicle operator. As a practical matter, the need to pass the CDL test is also a *de facto* training requirement, in that the test cannot be passed without some level of study and preparation.

If it is determined that the CDL is inadequate to provide reasonable assurance of safe driving, the proper course should be to explore enhancements to the test. If the performance test is adequate, there is no need for the federal government to impose a new overlay of intrusive and perhaps expensive training regulations requiring additional bureaucracy.

LIMITING TRUCK SIZES AND WEIGHTS

It is generally accepted that driver error is the leading contributor to motor vehicle

accidents. Mechanical defect is a significant, but secondary cause. Together, these two elements are far and away the largest contributors to motor vehicle accidents. Congress had enacted important legislation in recent years dealing with both truck drivers and mechanical issues. NPTC has supported almost all of this safety legislation. However, Congress should refrain from legislating requirements that do not have a direct impact on the safety of drivers and vehicles. Legislation further limiting trailer sizes and weights is an excellent example of something Congress should not do. NPTC knows of no credible data to suggest that the heavier or longer vehicles, which some now seek to ban, are any less safe than lighter or shorter vehicles. In any event, the physical characteristics of a vehicle are rarely the determinant factor in the cause of an accident. Additionally, the obvious result of limiting truck capacity is that you end up with yet more trucks. The freight still has to move and it can't all move by rail. More vehicles on the roads means less safety, more air pollution and more traffic congestion. Before Congress succumbs to public hysteria about big trucks and acts to limit trailer length, it should consider the same criteria that the Department of Transportation has wisely applied to its zero-base review: Is the requirement rational and justified? Is it worthy of implementation? Is it performance based? Does it actually enhance safety and reduce accidents?

SUMMARY

In selecting appropriate federal involvement in truck safety efforts, Congress and the federal agencies should: 1) focus on performance standards which allow businesses

maximum flexibility to achieve results in the most cost effective manner; and, 2) concentrate truck safety initiatives on those areas which are most likely to achieve real gains in safety performance. Congress and the federal agencies should refrain from actions that are not performance-based, and cannot be justified on the basis that they will reduce accidents.

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TESTIMONY OF JOAN CLAYBROOK, CO-CHAIR

CITIZENS FOR RELIABLE AND SAFE HIGHWAYS (CRASH)

AND PRESIDENT, PUBLIC CITIZEN

BEFORE THE SUBCOMMITTEE ON SURFACE TRANSPORTATION

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, D.C.

JUNE 14, 1994

Thank you, Mr. Chairman. I am testifying today as President of Public Citizen and Co-Chair of Citizens for Reliable and Safe Highways (CRASH). CRASH is a nonprofit citizens organization dedicated to highway safety. CRASH has over 30,000 activists nationwide. Our 17-member Board of Directors includes Robert Vagley, President of the American Insurance Association; John S. Hassell, former Administrator of the Federal Highway Administration; and James Arena, Chair of the National Association of Governor's Highway Safety Representatives.

Since its formation in 1990, CRASH has actively promoted a wide range of highway safety initiatives. Those initiatives related to issues such as truck driver fatigue, truck maintenance standards, the adequacy of truck underride guards, the freeze on Longer Combination Vehicles (LCVs) and ensuring that U.S. truck safety standards are not lowered as a result of the North American Free Trade Agreement.

Today we are here to testify in support of H.R. 4496, "The Safe Highways and Infrastructure Preservation Act of 1994," introduced by Representative James Oberstar. Mr. Oberstar's bill will save lives and reduce injuries and property damage by stopping the otherwise never-ending ratcheting upward of truck sizes and weights.

Moreover, without the Oberstar bill, Congress will spend billions of taxpayer dollars to upgrade National Highway System ("NHS") highways and bridges and then allow heavy trucks to destroy that system. Federal Highway Administrator Rodney Slater is as concerned about this as we are. As he recently noted: "The heavier the trucks, the more damage to our already deteriorated road system."

Specifically, H.R. 4496 will:

1. **Cap trailer lengths.**

Will freeze the length of trailers used on the NHS at 53 feet. Existing trailers longer than 53 feet legally in use may continue to operate on the NHS in those states where they are already authorized.

2. **Freeze current weight limits.**

All trucks in excess of 80,000 pounds (and trucks in excess of axle weight and bridge formula limits) can continue to operate on the NHS, but only on those highways and under the same conditions as now allowed. This provision would **not** require any trucking company or shipper to change any currently legal operations. It is **not** a roll-back. However, no new overweight rights could be claimed on the NHS.

3. **Repeal the Symms Amendment**

Mr. Oberstar's bill will return the authority to the U.S. Department of Transportation to review state claims of grandfather rights.

Others supporting a length and weight cap include the American Automobile Association which represents 35 million American motorists, the Owner Operator Independent Drivers Association which represents the nation's independent truck drivers, the Consumer Federation of America, the American Public Health Association, West Virginia United Mine Workers, the Sierra Club and the 38 other organizations set forth in the list attached to my testimony. Many of these organizations had hoped to be here personally to testify today as well. But in recognition of the Committee's time constraints, some will submit statements for the record. They want the Committee to realize that while this may not be an "inside the beltway" issue, it is an enormously important to citizens all over the country.

Last month this Committee reported a bill the NHS on which billions of dollars will be spent. We believe the Committee should follow that action with steps to protect the safety of the motoring public using these highways and the investment of its tax dollars.

Mr. Chairman, there are four reasons why we think Congress should freeze truck weights and length.

First, over the past 50 years there has been a dangerous pattern of ever increasing truck lengths and weights. A part of the trucking industry has, over the years, successfully exploited the ambiguities in federal weight laws. It has applied pressure on the states to obtain approval for heavier and longer trucks on state highways that are not permitted on federal Interstates. And that part of the trucking industry is never satisfied. In virtually every instance in which it has succeeded in obtaining higher length limits, it has followed with pressure to raise the weight limits to accommodate the added trailer capacity. Likewise, the weight increases are invariably followed by demands for greater length to accommodate the additional weight.

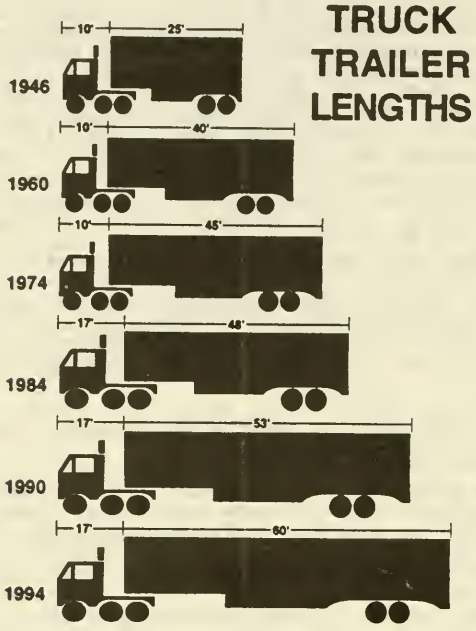
Second, heavy trucks cause huge amounts of pavement and bridge damage today. We already have an existing backlog of highway and bridge deficiencies estimated at $212 billion. Without the Oberstar bill, Congress will spend billions of taxpayer dollars to upgrade NHS highways and then allow heavier trucks to destroy that system.

Third, studies conclusively show that the heavier the gross weight of a truck, the greater the likelihood of a crash.

Fourth, longer trucks are more dangerous trucks.

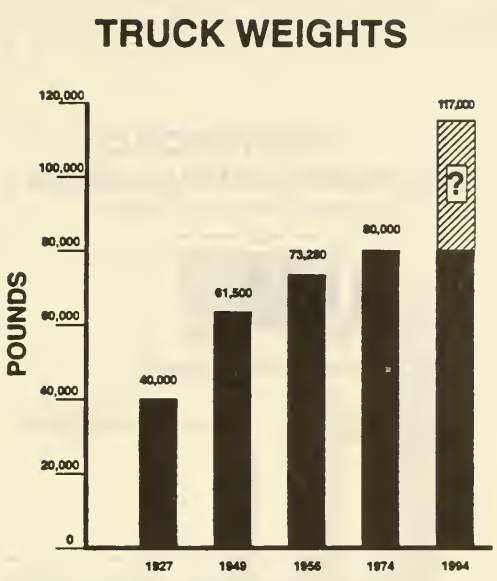
TRUCKS CONTINUOUSLY GET LONGER AND HEAVIER

Over the past 50 years, there has been a dangerous pattern of ever-increasing truck weights and lengths. The chart below shows the continuous growth in the length of trucks.[1]



[1]1990: All but a handful of northeastern and mid-Atlantic states had approved 53 foot trailers by 1990. In 1994, all states except Rhode Island allow 53 foot trailers. 1994: As of June, 1993, 11 states allowed trailers 57 feet or longer. Texas, Oklahoma, and Kansas allow trailers that are 59.6 feet long. Wyoming allows trailers 60 feet long. In 1987 the American Association of State Highway and Transportation Officials (AASHTO) adopted a policy calling for a national semitrailer length of **no more than 48 feet** in order to be compatible with existing highway design and safety needs. "Guide for Maximum Dimensions and Weights of Motor Vehicles and for the Operation of Nondivisible Load Oversize and Overweight Vehicles," AASHTO, April, 1987.

Similarly, trucks have become progressively heavier.[2]



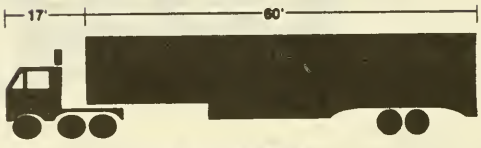
[2]Source for all years before 1994: Transportation Research Board, Twin Trailer Trucks, Special Report 211, p. 30. Source for 1994: Although there is now an 80,000 federal cap, because of the grandfather clause, many states issue special permits to exceed 80,000 pounds. The Federal Highway Administration does not know the number of special permits nor the number of overweight trips run under such permits. A Report to Congress from the Secretary of Transportation, "Overweight Vehicles -- Penalties & Permits, US Department of Transportation, April, 1993, p. iv. The maximum truck weight carried pursuant to special permits in Wyoming is 117,000 pounds. Summary of Size and Weight Limits, American Trucking Associations, 1993.

In sharp contrast, automobiles have been getting smaller and lighter since the 1970's.

COMPARISON OF TRUCK—AUTO LENGTHS

1946 TRACTOR WITH 25' TRAILER

1946 BUICK LENGTH = 17.85 FT.



1994 TRACTOR WITH 60' TRAILER

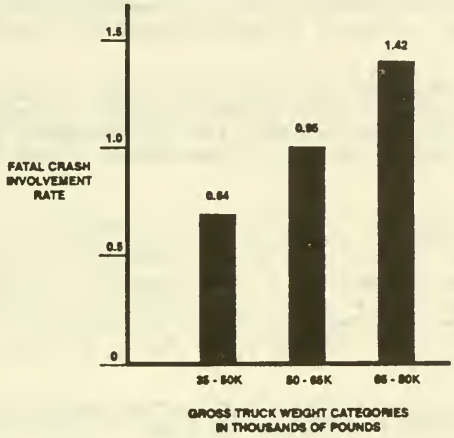
1994 ACCORD LENGTH = 15.33 FT.

Mr. Chairman, there is an immediate need to draw the line on further truck length and weight increases.

HEAVIER TRUCKS ARE MORE DANGEROUS TRUCKS

Truck crash rate studies conclusively show that heavier trucks are more dangerous trucks. The graph below depicts the sharp increase in fatal truck crash rates as trucks get heavier.[3]

FATAL CRASH RATES FOR LOADED TRACTOR SEMI-TRAILERS



[3]K.L. Campbell et al., "Analysis of Accident Rates of Heavy-Duty Vehicles", University of Michigan Transportation Research Institute, Report No. UMTRI-88-17, Ann Arbor, April, 1988, p. 65.

This graph is based on a study of fatal truck crash involvement rates performed by the University of Michigan Transportation Research Institute (UMTRI) in 1988. The UMTRI study shows that if an 80,000 pound truck is operating on the same highways and under the same conditions as a 65,000 pound truck, the heavier truck is 47% more likely than the lighter truck to be involved in a crash because of the additional weight.

The American Trucking Association (ATA) would have you believe that the gross weight of a truck bears no relationship to the likelihood of a crash. In fact, they would have you believe that the heaviest trucks are the very safest.

In support of this, the ATA cites UMTRI data showing lower crash rates for the heaviest trucks.[4] The ATA would hope that your analysis would end at that point. However, UMTRI concluded that stopping at that point -- and not taking into account the types of roads on which heavy and light trucks travel -- misrepresents the influence of gross weight in causing fatal truck crashes.

UMTRI concluded that in order to provide a comparison of fatal crash involvement rates of trucks with differing gross vehicle weights, one must control for the influence the different highways travelled and the time of day during which the travel takes place.

Heavier trucks -- typically used in long haul over the road operations -- travel much more on the safer limited access, divided highways, and on the safer rural highways and at night when there is less congestion on the highway. Lightly loaded trucks -- such as used in pickup and delivery service -- travel more often on the more dangerous urban roads, on the more dangerous two way, two lane roads and during the more congested daylight time periods.

UMTRI stated that it is "essential" to control for these factors.[5] When UMTRI controlled for these factors, it found (as

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[4] March 25,1994 letter from Western Highway Institute to the Honorable Nick Joe Rahall, p. 3. The Western Highway Institute was acquired by the American Trucking Associations in October, 1993.

[5] Campbell et. al., supra note 3, p. 67: "To carry out the analysis, it is essential to have both accident data and travel data that can be cross-classified by the factors of interest, especially those categorizing the type of travel. It is not sufficient to simply know the total miles travelled. One must also be able to classify the travel by factors related to the accident

shown in the graph on page 6 of this testimony that the heaviest trucks were significantly overinvolved in crashes.

There a number of factors which make heavier trucks more dangerous. These are explained in detail in the CRASH white paper I have attached to my testimony. Let me briefly summarize those reasons now.

First of all, heavier truck weights substantially increase the truck rollover rate.[6] Researchers at the University of Michigan's Transportation Research Institute have concluded that the 1974 federal law which increased the maximum truck weight from 73,280 pounds to 80,000 pounds resulted in a 44% increase in the rollover rate of fully loaded trucks.[7] Mr. Chairman, I think this is particularly significant. An increase of less than 7,000 pounds increased the rollover rate by 44%. More recent research shows that increasing gross weight from 80,000 to 88,000 pounds will again increase the rate of rollovers.

Second, heavier trucks are also more likely to be involved in "runaway" crashes[8] caused by brake failures on steep downhill grades. Interviews with truck drivers with mountain driving experience show that one out of every four drivers has lost his brakes at least once during his driving career.[9]

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risk, such as the type of road and the time of day."

[6]R. D. Ervin et al., "Influence of Size and Weight Variables on the Stability and Control Properties of Heavy Trucks," Final Report, Vol. I, University of Michigan Transportation Research Institute, March, 1983, pp. 82-84.

[7]R. D. Ervin et al., supra note 6, p. 84.

[8]P.S. Fancher et al., "Retarders for Heavy Vehicles: Evaluation of Performance Characteristics and In-service Costs," Phase I, Technical Report, Highway Safety Research Institute, The University of Michigan, February, 1981, pp. 90-91.

[9]P.S. Fancher et al., supra note 8, p. 75.

Third: More weight means that for many trucks it will take longer for the truck to come to a stop after the brakes are applied.[10] The rates of fatal crashes in which tractor-semitrailers crashed into the rear ends of other vehicles are consistently higher for more heavily loaded trucks than for more lightly loaded trucks.[11]

Fourth: Trucks designed to carry heavier loads have more jackknife crashes when travelling empty than do trucks designed for lighter loads.[12]

Fifth: Heavier trucks are incompatible with other traffic. Heavier trucks travel more slowly on upgrades. These slower speeds are dangerous. Among other hazards that are created, these slow upgrade speeds on two-lane, two-way highways cause a much higher percentage of illegal passing maneuvers by trailing passenger cars.[13] One study showed that trucks which travel 15 mph below the prevailing speed of other

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[10]R. D. Ervin et al., supra note 6, at pp. 55-56, determined that for out of adjustment brakes, the increase in stopping distance is directly proportional to increases in weight. Federal Highway Administration, Office of Motor Carriers, Accomplishments and Effectiveness, Annual 1992 Report, Attachment 111, p. 7 reports that more than 50% of all out of service violations result from out of adjustment brakes. About 30% of all truck inspections result in out of service orders. Congress of the United States, Office of Technology Assessment, Gearing Up for Safety, Summary, 100th Congress, p. 5.

[11]P.S. Fancher et al., Turner Truck Handling and Stability Properties Affecting Safety," Final Report, Vol. I, University of Michigan Transportation Research Institute, 1989, p. 122.

[12]Transportation Research Board, Truck Weight Limits, Special Report 225, 1990, p. 111. Note that loaded trucks seldom jackknife. Jackknife is usually initiated by premature lockup of the drive axles of tractors hauling empty trailers. P.S. Fancher et al., "Vehicle Design Implications of the Turner Proposal," University of Michigan Transportation Research Institute, September 14, 1989, text accompanying Figure 8. Heavier trucks require more torque capacity than do lighter trucks. When the torque level applied to tires becomes too great, given the load on those tire, lockup and loss of control occurs. R. D. Ervin et al, supra note 6, p. 52.

[13]Gerald Donaldson, Ph.D., "Large Truck Safety and the Geometric Design of Two-Lane, Two-Way Roads," ITE Journal, vol. 55, No. 9, September 1985, pp. 41-46, citing Wolton and Gericke. See Note 17.

vehicles have crash involvement rates nine times higher than those that travel at the same speed as other traffic.[14]

Also, because of their length and slow acceleration rates, longer and heavier trucks take more time and distance to merge into freeway traffic from an onramp than do smaller and lighter trucks. Acceleration lanes -- that is, merge lanes which allow vehicles coming from onramps to build up enough speed to easily merge with other vehicles -- are designed primarily for cars and, according to the Transportation Research Board, are already too short for even 80,000 pound trucks.[15]

Mr. Chairman, there is no question that heavier trucks cause more crashes, more death and injury, or more damage to our highways and bridges. It is therefore essential that the current federal 80,000 pound limit gross vehicle weight limit (including the current requirements of 23 U.S.C. section 127) which now applies only to Interstates be extended to the entire National Highway System. H.R. 4496 would extend these requirements to the NHS.

OVERLENGTH TRUCKS ARE MORE DANGEROUS TRUCKS

There are a number of reasons why overlength trucks are more dangerous. Already the current situation threatens to get out of hand. For example, in the state of Oklahoma, a new rule has been proposed by the state DOT to increase the maximum allowable length of double trailer trucks to 59 feet 6 inches for each trailer. This is a vehicle nearly 150 feet in length, one-half the length of a football field. These vehicles are nothing less than "highway trains".

There are a number of concerns about truck length.

Offtracking and Swingout Lane-Encroachment

One of the major hazards of overlength trucks results from a tradeoff which must be made by truck drivers between the dangers of "offtracking" and "swingout lane-encroachment". Let me

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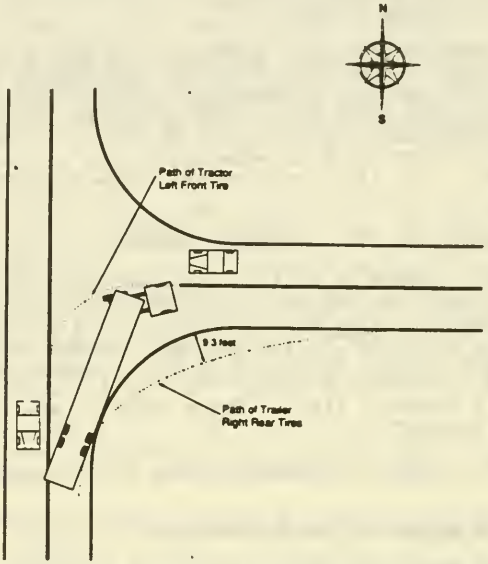
[14]C.M. Walton and O. Gericke, "An Assessment of Changes in Truck Dimensions on highway Geometric Design Principles and Practices," The University of Texas Center for Transportation Research, Austin, 1981.

[15]Transportation Research Board, Truck Weight Limits, Special Report 225, 1990, p. 119.

describe these two dangers.[16]

"Offtracking" means that the rear wheels of a trailer do not follow the front wheels of the tractor when making a turn. In order to make a 90 degree intersection turn and minimize the encroachment by the trailer into the oncoming lanes of traffic, a driver of an overlength trailer must, as shown below, allow the trailer to leave the roadway, roll over any curb and plough through whatever stands in its path -- from roadway signs to other objects. This may unintentionally include a pedestrian or a bicyclist.



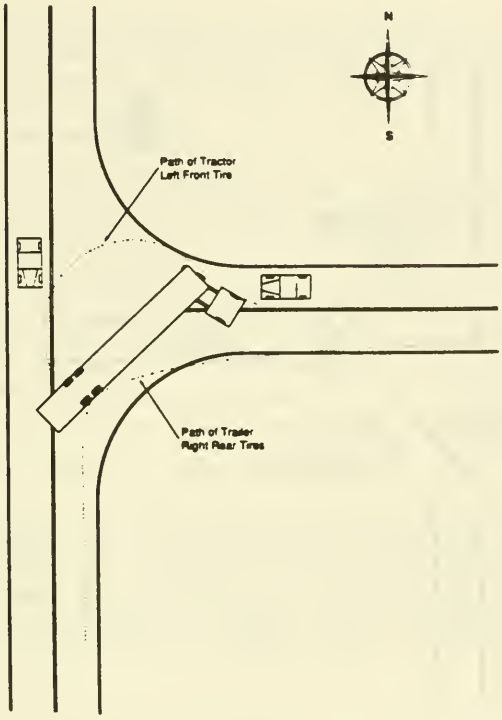
[16]Diagrams on pp. 11-13 are based upon the CRASH computer simulations based upon the mathematics and geometrics set forth in the following two studies:

"Vehicle Offtracking Models", Michael W. Sayers (UMTRI); in Symposium on Geometric Design for Large Trucks, Transportation Research Record 1052; 1986

"Swept Paths of Large Trucks in Right Turns of Small Radius"; J. R. Billing and W. R. J. Mercer (Ontario Ministry of Transportation); in Symposium on Geometric Design for Large Trucks; Transportation Research Record 1052; 1986.

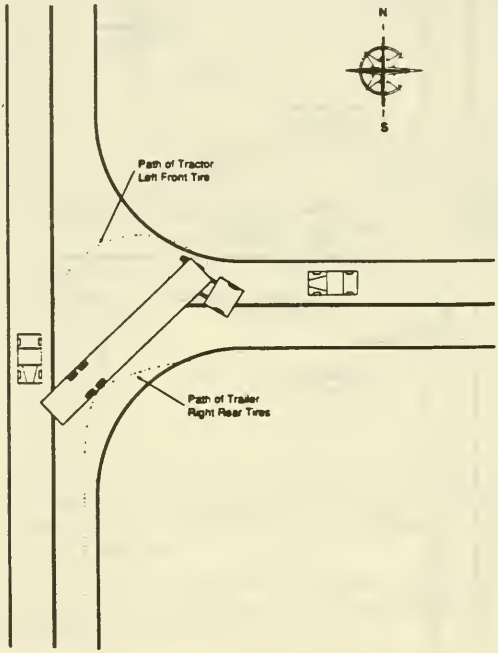
Mr. Chairman, note that the path of the right rear trailer tires are more than 9 feet off the pavement. Note also that the rear of the trailer encroaches two feet into the lane of oncoming traffic. In 1983, a survey of the states of AASHTO showed that only about half of existing Interstate ramps could accommodate the offtracking of a combination truck with a 48-foot long semitrailer.

If the driver tries to prevent the trailer from leaving the road, he must encroach to a much greater degree into oncoming lanes of traffic in one of the two ways shown below.



You will note that the driver first had to swing his tractor to the left two feet in the lane of oncoming southbound traffic before beginning his right turn into the lane of westbound oncoming traffic. This maneuver causes the trailer to "swing-out" five feet -- almost to the middle of the oncoming lane of traffic. The rear end trailer swing-out is extremely hazardous for oncoming traffic since it is totally unexpected and the truck driver himself will frequently not realize that the swing-out is going to occur. He will, therefore, not plan for it.

Note also, that the right rear tires of the trailer still leave the roadway. The driver's only other choice is as shown below:



Here the driver avoided moving the tractor into the southbound oncoming lanes of traffic, but both the tractor and the trailer encroached into oncoming lanes of traffic on the road onto which they were turning. The trailer also encroaches 3 1/2 feet into the southbound oncoming lanes of traffic. The left front wheels of the tractor goes over the curb and leaves the pavement on the left and the right rear tires of the trailer go over the curb and leave the pavement on the right.

Here the tractor and the trailer encroached into oncoming traffic lanes on the road onto which they were turning.

Severity

Crashes with these overlength trailers are more likely to be severe. In a jackknife accident, for example, the extra length of the trailer means the overlength trailer is more likely to be thrown into adjacent lanes of traffic and to hit other vehicles.

Lane Changes and Merging

Drivers of overlength trucks find it more difficult to merge into freeway traffic from an onramp. They frequently have to slow or stop to find a gap in traffic which is large enough to allow them to move into. This results in traffic backup and disruption at the interchange. It also creates the potential for following motorists to hit the rear end of overlength trucks which suddenly slow or stop. Moreover, slowing or stopping the truck effectively shortens the length of the acceleration lane provided for merging. These lanes are almost always of substandard length even for trucks attempting mergers at reasonable speeds.

Overlength trucks have the same problem changing lanes.

Heavier Trucks Destroy Our Roads and Bridges

Large trucks are already beating our road pavements and bridges to pieces. Our existing total backlog of highway and bridge deficiencies is estimated by the federal government as $212 billion. The U.S. Department of Transportation in its last report to Congress says that it would take $60 billion a year just to improve our roads and bridges above minimum acceptable standards.[17] More than 115,000 federally-assisted bridges in the

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[17] U.S. DOT, "The Status of the Nation's Highways, Bridges and Transit: Conditions and Performance," 1993.

U.S. are rated as structurally deficient.[18]

If we do not cap the size and weight of trucks we will be spending billions of dollars to create the NHS and then allow even heavier trucks to destroy that system. The American Association of State Highway and Transportation Officials ("AASHTO") showed many years ago in its road test (the "Road Test") that one 80,000 pound 5-axle tractor-semitrailer will do as much damage to the pavement as 9,600 automobiles.[19]

The ATA has questioned the reliability of the AASHTO 9,600 to 1 ratio of truck to car pavement damage by asserting that the AASHTO figure has no relationship to actual pavement wear and is outdated.[20] The ATA is wrong that the AASHTO Road Test has no relationship to actual pavement wear. In fact, the AASHTO Road Test involved continual driving on test roads until the roads wore out.

The ATA is correct that the AASHTO Road Test completed in the early 1960s is old and should be updated. The 9,600 to 1 ratio was based on the relative damage caused by a heavy truck and a 4,000 pound car, about the weight of a minivan carrying five passengers and a weekend's worth of luggage. Since most cars today carry on average 1.3 passengers and weigh about 3,000 pounds, a more accurate average car weight for today would be 3,200 pounds. Using the updated car weight the AASHTO ratio for truck to car pavement damage would be closer to **19,000 to 1.**

Even the ATA's own report suggests a methodology which results in a truck-to-car pavement damage ratio of 5,600 to 1.[21]

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[18] Id.

[19] "AASHO Road test," Highway Research Board Special Report 61, National Academy of Sciences, 1962.

[20] March 25, 1994 Western Highway Institute letter, supra, note 4, pp. 4-5.

[21] P. E. Irick, S.B. Seeds, and M. A. Diaz, ARE Inc., Engineering Consultants, "Characteristics of Load Equivalence Relationships Associated with Pavement Distress and Performance Phase II Study," Executive Summary, December 1991, prepared for the Trucking Research Institute, ATA Foundation, Inc. The 5,600 to 1 ratio was derived from Equation 3 on page 6 and Table 3 on page 12. CRASH used values from Table 3 corresponding to the parameters used to define AASHTO's 9,600 to 1 ratio: SN = 4.36, terminal PSI = 2.5. All ratios are based on load equivalence factors for flexible pavements which comprise about 60% of Interstate and principal arterial mileage.

Frankly, Mr. Chairman, it is less important whether the damage ratio is 19,000, 9,600 or 5,600 to 1. The fact is, no matter which of the three ratios is right, heavy trucks cause an enormous amount of damage to public highways, and our government policies should be designed to put an end to the constant escalation of truck weights.

And the rate at which paved surfaces deteriorate increases exponentially in relation to the weight of the vehicle running over it. This means, for example, that a 20% increase in the current weight limit will cause 75% more pavement wear.[22] Should we expect the public to pick up the cost of the additional highway damage from heavy trucks? According to the Federal Highway Administration, the amount paid by trucking companies in taxes is at most only 60% of the cost of the damage that they cause to our highways and bridges.

ATA claims that there is no need for a gross vehicle weight cap of any level and urges Congress to "free the private sector and state governments from federal limitations on gross vehicle weight caps and the LCV freeze."[23] CRASH strongly disagrees.

The gross vehicle weight cap is essential. As we have already shown, the heavier the gross weight of a truck, the greater the likelihood of a fatal crash. Moreover, both pavement and bridge damage worsen with increasing gross vehicle weights with the same vehicle configuration. Existing gross vehicle weight limits are a compromise that allow some level of bridge and pavement damage, and raising these limits would increase the damage.

With respect to bridge damage, FHWA has concluded that the current bridge formula without a gross weight cap would allow the operation of trucks so heavy that they could cause severe structural damage to bridges on the Interstate system:

> Within the range of configurations normally operated by carriers, the Bridge Formula effectively prevents overstress on Interstate System bridges. If combinations were operated with many more axles than are commonly used, however, allowable vehicle weights derived from the Bridge Formula could be high enough to severely damage Interstate bridges. Presently, the Gross Vehicle Weight limit of 80,000 pounds on the Interstate System creates little incentive for carriers

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[22] Transportation Research Board, Truck Weight Limits, Special Report 225, 1990, p. 141.

[23] Western Highway Institute Letter, supra, note 4, p. 6.

> to add axles to existing combinations, but without a Gross Vehicle Weight limit there would be such an incentive because the greater the number of axles, the greater the permissible Gross Vehicle Weight. For instance, a Turnpike Double with 25 axles could have a Gross Vehicle Weight of 227,500 pounds, and a Triple could weigh 205,000 pounds.[24]

Obviously, if Interstate bridges are at such great risk then bridges on the remainder of the NHS would be at risk of even greater structural damage.

As far as LCVs are concerned, we are not surprised by this most recent statement of the ATA's real agenda. Their call for a "thaw" of the LCV freeze merely confirms the ATA's overall plan to place the heaviest and longest trucks on our highways without regard to the dangers they present to everyday motorists or to the damage they cause to our highways and bridges.

Close The Symms Amendment Loophole

These considerations show how our non-Interstate highways are at risk of major increases in truck crashes and pavement damage. But weight abuses and legal loopholes have combined to ensure that both safety and pavement suffer from big trucks on our Interstates as well.

These loopholes allow states, under pressure from part of the trucking industry, to exceed the federal 80,000 pound weight limit. The most important of these is the "Symms Amendment" to the grandfather provision of Title 23, section 127. In 1956 Congress passed legislation to build the Interstate highway system. At the same time, it passed a truck weight limit law on the Interstates to protect that huge investment from the pavement and bridge damage caused by heavy trucks. Since some states, however, already had state laws with higher weight limits than the new federal limit, those states had their higher limits grandfathered.

Until 1982 the determination of whether a state had grandfathered rights to issue special permits allowing trucks heavier than the federal limit on the Interstates was made by the Secretary of Transportation through the Federal Highway Administration.

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[24] Federal Highway Administration, "The Feasibility of a Nationwide Network for Longer Combination Vehicles," Report to Congress, June, 1985, p. II-25.

In 1982, however, Senator Steve Symms sponsored an amendment which has created complete chaos. It gives each state highway department absolute discretion to determine whether it has grandfather rights, no matter how tenuous or blatant the claim.

The result has been an explosion in the number of overweight trucks on Interstates. The number of divisible multi-trip permits for overweight trucks has increased by more than 300%[25] since the Symms Amendment was added to section 127. And FHWA, despite possessing proof that state grandfather claims are inaccurate, remains powerless to protect the Interstates and the motoring public because of the Symms Amendment.

The Symms Amendment must be repealed now.

CONCLUSION

Mr. Chairman, Congress must act now to stop the spread of overweight and overlength trucks. CRASH urges this Committee and Congress to report out and pass H.R. 4496, the Safe Highways and Infrastructure Preservation Act of 1994.

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[25] Overweight Vehicles-Penalties and Permits, Federal Highway Administration, 1993.

CRASH

CITIZENS FOR RELIABLE AND SAFE HIGHWAYS

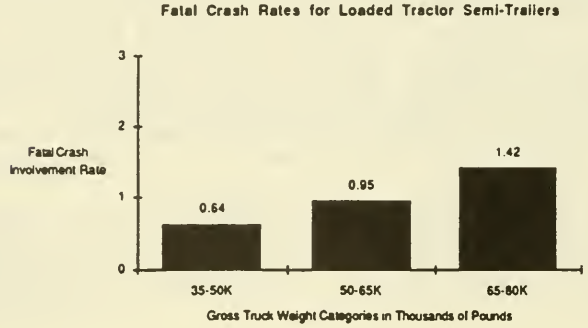
OVERWEIGHT TRUCKS ARE MORE DANGEROUS TRUCKS

American roads and highways are already extremely dangerous. From 1977 through 1988 more American men, women and children were killed in crashes on U.S. highways than died in all U.S. wars from the Revolutionary War through the Vietnam War.

Trucks cause a disproportionate part of that carnage. Each year about 4,000 Americans die and 100,000 are injured in truck crashes.

I. MORE WEIGHT MEANS MORE CRASHES

Truck crash rate studies conclusively show that the fatal truck crash rate increases when heavier loads are put in trucks. The following graph shows how rapidly the death rate goes up as loaded trucks get heavier.[1]



[1] K.L. Campbell et al., "Analysis of Accident Rates of Heavy-Duty Vehicles", University of Michigan Transportation Research Institute, Report No. UMTRI-88-17, Ann Arbor, April 1988, p. 65.

CITIZENS FOR RELIABLE AND SAFE HIGHWAYS
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The meaning of "fatal crash involvement rate" in the horizontal axis on the graph on the preceding page is explained in footnote 2.[2]

The following sections of this white paper sets forth the many reasons why heavier trucks crash more frequently than less heavy ones.

1. Rollover

Heavier trucks have more rollover crashes.

Because of their higher centers of gravity, trucks are more susceptible to overturning during steady turns or sudden obstacle avoidance maneuvers than are passenger cars.

The center of gravity is, however, not the only factor that influences susceptibility to rollover. Engineering research at the University of Michigan's Transportation Research Institute has shown "categorically" that the higher a truck's gross vehicle weight, the greater its susceptibility to rollover.[3] The results of that engineering research is shown graphically on Appendix A to this paper.

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[2] The horizontal axis on the graph on the preceding page (the fatal crash involvement rate) represents whether a truck weight category is over or under-represented in fatal crashes relative to the fatal crashes of other weight categories. A fatal crash involvement rate of 1.0 for a truck weight category would mean that such category had a fatal crash rate per million miles travelled that is equal to the average for all truck weight categories. An involvement rate of 1.42 means that this category had a crash rate per million miles travelled that is 42% above the average. An involvement rate of 0.64 means that the crash rate for this category is 36% below the average.

[3] "Gross weight increases . . . categorically reduce the roll stability of the vehicles studied. . . . Gross weight increases are seen to have a definite and consistently degrading influence on rollover threshold." (R.D. Ervin et al., "Influence of Size and Weight Variables on the Stability and Control Properties of Heavy Trucks," Final Report, Vol I, University of Michigan Transportation Research Institute, March 1983, pp. 79 and 82.) Note in the chart in the Appendix to this White Paper that a tractor semi-trailer with a 73,300 pound gross weight has a rollover threshold of .400 g's. The same tractor-semitrailer with at 92,000 pound gross weight has a rollover threshold of .275 g's, 30% worse than that of the 73,300 pound truck. (Id. Figure 30, p. 80.) An arithmetic degradation in the rollover threshold causes an almost geometric increase in rollover accidents.

Crash rate studies lead to the same conclusion as do the engineering studies. Actual truck rollover crash rates increase as the gross vehicle weight increases.[4]

Indeed, the crash rate data studied together with University of Michigan Transportation Institute computer simulations show that the 1974 federal law which raised the maximum permitted gross vehicle weight from 73,000 pounds to 80,000 pounds resulted in a 44% increase in the rollover rate of fully-loaded trucks.[5]

2. Runaway Trucks

Heavier trucks would cause more "runaway" crashes on downhill grades. Because of the vast number of hills and mountains in this country trucks must descend many steep downhill grades.

Increased truck weights causes truck brake temperatures to increase during downhill descents.[6] This can lead to total brake failure and runaway crashes.

The crash data show that heavily loaded trucks are over-represented in runaway truck crashes relative to less heavily loaded ones.[7] This means that the probabilities of runaway crashes on downhill runs will increase as truck gross weights increase.[8]

The probability of a runaway today (before a legal increase in gross vehicle weight) is already one runaway in every 5,000 downhill trips.[9] Interviews of truck drivers with mountain driving experience show that one out of four has lost his brakes during his driving career.[10]

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[4] R.D. Ervin et al., "Influence of Size and Weight Variables on the Stability and Control Properties of Heavy Trucks," Final Report, Vol. I, University of Michigan Transportation Research Institute, March 1983, pp. 82-84. See also K. L. Campbell et al., "Analysis of Accident Rates of Heavy-Duty Vehicles," University of Michigan Transportation Research Institute, Report No. UMTRI-88-17, Ann Arbor, April 1988.

[5] R.D. Ervin et al., supra note 5, p. 84.

[6] Transportation Research Board, National Research Council, Truck Weight Limits,Special Report 225, Washington, D.C., 1990, p. 119.

[7] P.S. Fancher et al., "Retarders for Heavy Vehicles: Evaluation of Performance Characteristics and In-service Costs," Phase I, Technical Report, Highway Safety Research Institute, The University of Michigan, February, 1981, pp. 90-91.

[8] Transportation Research Board, supra note 6, pp. 119-120.

[9] P.S. Fancher et al., supra note 7, p. 96.

[10] Id., p. 75.

3. Braking Dangers

a. Longer Stopping Distances

More weight means longer stopping distances for trucks with out-of-adjustment brakes.

Unfortunately, truck brakes are not well-maintained in the United States. In 1992, twenty-four percent of the trucks stopped and inspected by the highway patrols and state police forces of our country had maintenance problems so severe that they were ordered off the road. The problem with most of those poorly maintained trucks was that their brakes or suspensions were unfit for further travel.[11]

If a truck's brakes are not properly adjusted, the truck's minimum stopping distance will increase approximately in direct proportion to the increase in the truck's gross weight.[12] If the 80,000 pound weight limit currently in force on Interstates is not made applicable to the entire National Highway System, many trucks will be substantially heavier than they would otherwise be and will have poorly adjusted brakes. Those trucks will travel substantially further after the drivers put on their brakes than they would have traveled had the 80,000 pound limit been applied.

Truck crash data show that heavier trucks lead to more crashes caused by those trucks' inability to stop in time. A University of Michigan study concluded that the rates of fatal crashes in which tractor-semitrailers rear-ended other vehicles were consistently higher for more heavily loaded trucks than for more lightly loaded trucks.[13]

Note that this data comes primarily from states that have 80,000 pound maximum weight laws. The University of Michigan study generally compared crash rates for trucks weighing 30,000 or 40,000 pounds against crash rates for trucks weighing 65,000 or 80,000 pounds.

b. Overbraking and Jackknifing

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[11] Federal Highway Administration, Office of Motor Carriers, Accomplishments and Effectiveness Annual 1992 Report, Attachment 111.

[12] R.D. Ervin et al.,"Influence of Size and Weight Variables on the Stability and Control Properties of Heavy Trucks," Final Report, Vol. I, University of Michigan Transportation Research Institute, March 1983, pp. 55 and 76.

[13] P.S. Fancher et al., "Turner Truck Handling and Stability Properties Affecting Safety," Final Report, Volume I, University of Michigan Transportation Research Institute, 1989, p. 122.

A 120,000 pound weight limit can lead to more jackknife crashes when trucks travel empty.

Truck braking systems are designed to provide adequate braking capacity when the truck is fully loaded. 120,000 pound trucks must have brakes designed to stop 120,000 pound loads. Brakes designed for 120,000 pound trucks are more likely to apply too much torque to the tires when trucks are empty than brakes designed for 80,000 pound trucks. This frequently leads to jackknifing crashes.[14]

4. Steering Dangers

The steering sensitivity of tractor-semitrailers decreases sharply as the gross vehicle weight increases.[15]

Crash data show that the lower the steering sensitivity, the higher the fatal single vehicle truck crash rates.[16] Thus, increases in truck weight will translate into more single vehicle fatal crashes due to poor steering sensitivity.

5. High Speed Offtracking

Offtracking means that the rear wheels of a trailer do not follow the front wheels of the tractor. High speed offtracking results when a tractor-semitrailer goes around a curve or a freeway exit ramp at or near highway speeds.

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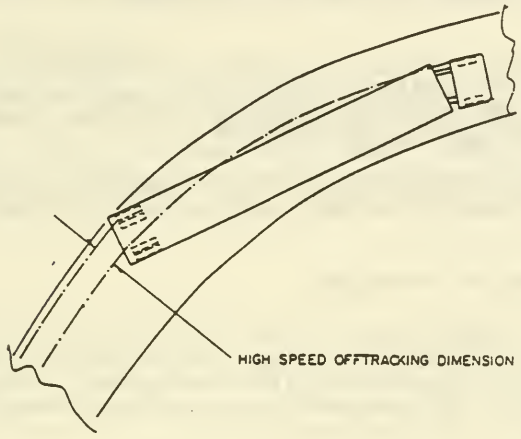
[14] Transportation Research Board, National Research Council, Truck Weight Limits, Special Report 225, 1990, p. 111. Note that loaded trucks seldom jackknife. Jackknife is usually initiated by premature lockup of the drive axles of tractors hauling empty trailers. P.S. Fancher et al., "Vehicle Design Implications of the Turner Proposal," University of Michigan Transportation Research Institute, September 14, 1989, text accompanying Figure 8. Heavier trucks require more torque capacity than do lighter trucks. When the torque level applied to tires becomes too great, given the load on those tires, lockup and loss of control occurs. R.D. Ervin et al., supra note 4, p.52.

[15] Fancher et al., 1989, supra note 9, pp. 92 and 96.

[16] Id., p. 128.

High speed offtracking (diagramed below) is dangerous. When a tractor-semitrailer is traveling on a curve at highway speeds on the winding mountainous roads, the back of its trailer could sideswipe other vehicles traveling in adjacent lanes or stopped cars sitting on the highway shoulder. When trucks negotiate freeway exit ramps at high speeds, the tires of the trailer's rear axles may strike the curb, leading to a rollover.



High speed offtracking for tractor-semitrailers increases as gross weight increases.[17]

6. Slow Speed on Upgrades.

Trucks typically accelerate more slowly than cars and have more difficulty maintaining desirable speeds on long, steep upgrades. The most important factor affecting truck speed on upgrades is the weight-to-horsepower ratio (gross truck weight divided by net horsepower).[18]

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[17] Fancher et al., 1989, supra note 9, p. 74.

[18] Transportation Research Board, National Research Council, Truck Weight Limits, Special Report 225, 1990, p. 117.

Slower speeds are dangerous.

They lead to more sudden brake applications, more overtaking and more lane changing attempts by vehicles stuck behind the slowly moving trucks. These slow truck speeds also cause disruption as the trucks themselves change lanes.

Studies demonstrate that these slower speeds are much more dangerous than is commonly understood.

A University of Texas study concluded that trucks which travel 15 mph below the prevailing speed of other vehicles have crash involvement rates nine times higher than those that travel at the same speed as other traffic. The same study found that the crash involvement rate is 15 times higher if the speed differential is 20 mph.[19]

Data on rear-end crashes compiled and analyzed in a U.S. Government study showed that the rates of rear-end crashes increased sharply when speed reductions exceeded 20 mph.[20]

7. Unsafe Merging and Lane Changing

Because of their length and slow acceleration rates, tractor-semitrailer trucks take longer to merge into freeway traffic from an onramp than do cars and small trucks. Acceleration lanes (merge lanes which allow vehicles coming from onramps to build up enough speed to easily merge with other vehicles already on the freeway) are designed primarily for cars and are already too short for 80,000 pound trucks.[21]

Heavier truck weights will mean that trucks will have to slow down or stop even more frequently than they do now to find a gap in traffic large enough to allow them to merge. This will result in traffic backup and disruption. It will also increase the probabilities of crash by increasing levels of traffic conflicts.[22]

To compensate for inadequate acceleration lane length, truck drivers may have to speed up while traveling the latter portion of interchange ramps to gather speed high enough for

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[19] C. M. Walton and O. Gericke, "An Assessment of Changes in truck Dimensions on Highway Geometric Design Principles and Practices," The University of Texas Center for Transportation Research, Austin, 1981.

[20] D. Solomon, "Accidents on Main Rural Highways Related to Speed, Driver and Vehicle," U.S. Department of Commerce, 1964.

[21] Transportation Research Board, supra note 6, p. 119.

[22] Id. at p. 118.

merging. Especially on ramps with sharp curves, this can threaten loss of control on the curves.[23]

Heavier truck weight causes similar problems when truck drivers need to change lanes on busy freeways.

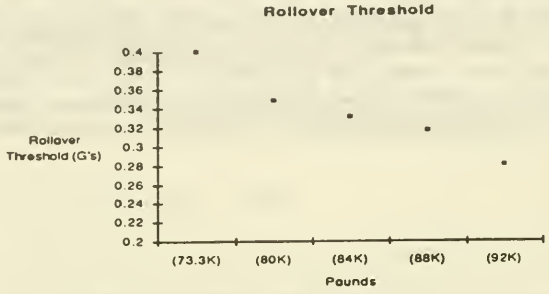
III. CONCLUSION

Studies conducted by government agencies, university research centers and independent boards demonstrate that an increase in gross vehicle weight would substantially increase the likelihood of truck crashes throughout the country. Heavier trucks would be more susceptible to rollover, runaway, serious braking problems, merging and other problems. The Congress should reject any proposal to allow overweight trucks on our nations highways.

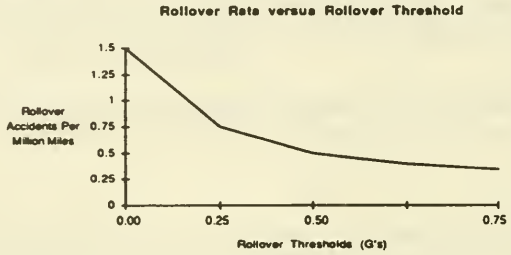
[23] Transportation Research Board, supra note 6, p. 119.

APPENDIX

The following chart shows the "rollover threshold" for tractor-semitrailer trucks at gross vehicle weights varying from 73,300 to 92,000. Rollover threshold represents the amount of force that a tractor-semitrailer can withstand when going around a curve or making a sudden obstacle avoidance maneuver without rolling over. The lower the rollover threshold, the more likely it is that a truck will rollover.[24]



The following graph shows that as the rollover threshold for a tractor-semitrailer becomes lower (worse), the rollover crash rate increases at an almost geometric rate.[25]



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[24] R.D. Ervin et al., supra note 3, figure 30, p. 80.

[25] P.S. Fancher et al., "Turner Truck Handling and Stability Properties Affecting Safety," Final Report, Vol. I, Technical Report, University of Michigan Transportation Research Institute, July 1989, Figure 3.1, p. 9.

ADVOCATES
FOR HIGHWAY
AND AUTO SAFETY

STATEMENT OF GERALD A. DONALDSON, PH.D., SENIOR RESEARCH DIRECTOR, ON THE TRUCK SAFETY INITIATIVES OF H.R. 4496, THE SAFE TRANSPORTATION AND INFRASTRUCTURE PRESERVATION ACT OF 1994, BEFORE THE SUBCOMMITTEE ON SURFACE TRANSPORTATION OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, UNITED STATES HOUSE OF REPRESENTATIVES, JUNE 14, 1994

Thank you, Mr. Chairman, for providing Advocates for Highway and Auto Safety with the opportunity of testifying on truck safety issues before the Subcommittee on Surface Transportation. Let me state here at the start that truck safety would be advanced both for the trucking industry as well as for the travelling public by the enactment of H.R. 4496. Advocates strongly supports the truck safety legislation that is being championed by Congressman James Oberstar in the Safe Transportation and Infrastructure Preservation Act of 1994. We are an alliance of common purpose between the automobile property and casualty insurance industry and a wide array of consumer advocates, public health experts, law enforcement authorities, and other organizations and individuals who care deeply about reducing the unacceptable losses we sustain each year from crashes on our streets and highways. Advocates has entered its fifth year of operation as a organization that acts at both the state and federal levels to achieve improved highway and vehicle safety laws and regulations.

We are here today to ask you, this committee, and this Congress to act strongly to put an end to the accelerating increases in truck sizes and weights. Congressman Oberstar's legislation is an opportunity for Congress to place appropriate

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boundaries to the lengths and weights of big trucks. These limits are necessary for ensuring a rational approach to highway traffic safety and to conserve the enormous investment we have made and will make in upgrading our highways and bridges.

In the last 13 years since the passage of the 1982 Surface Transportation Assistance Act (STAA), a surge in the sizes and weights of big trucks has occurred which has overwhelmed both the safety design and the physical strength of our highway and street network. Although Congress imposed national uniformity on the lengths and widths of trailers in 1982, it set no upper bounds for length. Semi-trailers, in particular, have grown to over 60 feet in length. These giants are unable to get on and off most of the elevated interstate and expressway ramps throughout the United States. Trailers over 53 feet in length cannot safely negotiate thousands of curves and intersections throughout the states.

And the temptation, of course, is for the available increase in cargo volume of longer trailers then to pull up axle or gross weight limits. Furthermore, in state after state, decisions on truck lengths and cargo weights have become a spoils system, with any given state subject to the appeal that an adjacent state's more generous limits place it at an unenviable economic disadvantage.

These alternating waves of length and weight increases have been exaggerated by the states' ability to provide themselves with what they view as their grandfather rights to run longer, heavier rigs on their Interstate highways. Along with suspect permitting of divisible loads as nondivisible, it is not too strong to say

that the nominal weight limits of existing federal law in 23 U.S.C. § 127 are honored mostly in the breach.

It is clear, Mr. Chairman, that the excessive weights of current trucks are destroying our roads and bridges far faster than we can marshall the funds to offset, much less make headway on the staggering backlog of needs. And overweight, longer trucks resulting from generous increases in basic weight limits, or from exemptions and cheap, easy permits, are incompatible with the most basic design features of our highways, and are causing more, and more severe, crashes. I remember well Chairman Norman Mineta's remark during the hearings on the National Highway System that our prospective infrastructure funding levels, on the best expectations, fall woefully short of the multi-modal investment scenarios of both Japan and Germany over the next several years. Where each of these countries plans multi-trillion dollar investments over the next several years for much smaller networks of highways and bridges, the U.S. can muster only about $400 billion for almost four million miles of roads.

The excessive damage that overweight trucks inflict on our roads and bridges also undermine our efforts at improving the safety designs of these facilities. Trust fund dollars diverted to play catch-up with the cycle of bridge deck and pavement destruction are dollars subtracted from providing all highway users with wider lanes and shoulders, smoother alignment, and more efficient safety hardware and effective traffic control devices.

Congress must act affirmatively and pass Congressman Oberstar's bill. Only reasonable federal control over the sizes and weights of commercial vehicles can put an end to the discordant trucking policies that have grown worse each year between the states. We must end the ability of the states to provide themselves with interpretations of how big and how heavy trucks can be on the federally funded National Highway System. We must allow our structural designs for highways and bridges, and our highway safety features, to catch up to the demands of trucks already on our roads.

Finally, the pressure to raise the ante in the U.S. on truck size and weight has now grown to international proportions. The pressure of Mexico and Canada in North American Free Trade Agreement truck size and weight negotiations will supply a trucking industry argument for increasing commercial vehicle axle and gross weight ceilings in federal law. We cannot allow truck sizes and weights to continue to move well beyond the margins of our highway design envelope. If we fail to act quickly and vigorously to impose a reasonable discipline on truck size and weight by implementing a freeze on further increases, we will pay even more in the near term with wasted highway investment and with wasted lives.

I want to thank you again for this opportunity to testify and I am happy to respond to any questions you might have for me.

COALITION SUPPORTS TRUCK LENGTH AND WEIGHT LIMITS IN HR 4496

A nationwide coalition of consumer, safety, medical, law enforcement, labor, trucking, and environmental groups have called on Congress to limit the length and weight of trucks using the National Highway System.

American Automobile Association
Advocates for Highway & Auto Safety
American Nurses Association
American Public Health Association
Association of Schools of Public Health
Bicycle Federation of America
Campaign for New Transportation Priorities
Citizens for Reliable & Safe Highways
Coalition for Consumer Health & Safety
Consumer Federation of America
Emergency Medical Care Council of Wisconsin
Emergency Nurses CARE
Florida Head Injury Association
Fraternal Order of Police
Friends of the Earth
General Federation of Women's Clubs
Grange Insurance Co.
Head Injury Prevention, Inc
Institute for Injury Reduction
International Brotherhood of Teamsters, Local 175
League of American Wheelmen
Missouri Safety Council
Motor Voters
Owner-Operators Independent Driver's Association, Inc.
National Association of Governors' Highway Safety Representatives
National Consumers League
National Head Injury Foundation
Natural Resources Defense Council
Public Citizen
Safe Travel America
Sierra Club
Transportation Communications International Union
Trauma Foundation
United Mine Workers of West Virginia
West Virginia Citizen Action Group
West Virginia Head Injury Foundation
WFWC Women's Club of Sheboygan
Wisconsin EMT Association
Wisconsin Epilepsy Association
Wisconsin Professional Ambulance Association
Wisconsin Public Health Association
Wisconsin State Fire Chiefs

Before the

SUBCOMMITTEE ON SURFACE TRANSPORTATION
OF THE
COMMITTEE ON PUBLIC WORKS
AND
TRANSPORTATION

UNITED STATES HOUSE OF REPRESENTATIVES

JUNE 14, 1994
WASHINGTON, D.C.

Statement of the
AMERICAN TRUCKING ASSOCIATIONS
On
TRUCK SAFETY ISSUES

Thomas J. Donohue
President and Chief Executive Officer

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I. INTRODUCTION

A. ATA REPRESENTS THE TRUCKING INDUSTRY

I am Thomas J. Donohue, President and Chief Executive Officer for the American Trucking Associations (ATA), the national trade association of the trucking industry. The ATA federation includes over 4,100 carriers, affiliated associations in every state, and 11 conferences. Together, ATA represents every type and class of motor carrier in the country. Combined with ATA's direct membership, we are a federation of over 40,000 member trucking companies.

Thank you for scheduling these hearings on commercial motor vehicle safety and also the important issue of truck size and weight.

B. THE TRUCKING INDUSTRY SERVES AMERICA

Trucking is the nation's largest freight transportation mode. The trucking industry employs 7.8 million people throughout the economy in jobs that relate to trucking activity --- more than the separate populations of 42 of our 50 states. We have gross freight revenues equal to over 5% of the Gross Domestic Product -- a total of $290 billion in 1993. Trucks haul over 77% of all manufactured goods and transport 43% of total tonnage shipped by all modes - 2.9 billion tons of freight annually.

Based on preliminary projections, we anticipate that by the year 2000, domestic freight tonnage will increase 30%. Between the years 1992 and 2000, the number of freight trucks (classes 6, 7 & 8) needed to haul it will climb 8.3%, to 3 million, and the miles these vehicles will be required to travel to deliver this freight will increase 31%. And all of this is if economic growth is at a conservative 2.8% per year.

C. SAFETY IS OUR NUMBER 1 ISSUE

ATA has initiated numerous programs for the trucking industry to improve safety, including: training programs for drivers, supervisors, and driving schools; management programs to assure safe vehicles, safe drivers, and safe operations; research to reduce accident experience; and, cooperative programs to improve vehicle performance, especially in the area of truck brakes. We have also been strong and early advocates for the establishment of the Motor Carrier Safety Assistance Program; creation of a Commercial Driver's License; adoption of electronic record keeping for hours of service; implementation of brake improvement research; requirements for drug and alcohol testing; and banning radar detectors. We provide a safety audit service to all motor carriers to assist them in understanding and complying with the Federal safety and hazardous materials regulations. We help the carriers establish the necessary safety management controls to ensure a continuing effective safety program that will reduce accidents on our highways.

We like most people on the road, are concerned about highway congestion. Incidents -- vehicle accidents and breakdowns that tie up highway traffic -- are a major cause of urban highway congestion. To address this issue, we have formed a National Incident Management Coalition which is an ad hoc group of private and public organizations dedicated to alleviating incident-induced traffic congestion. The coalition builds consensus on, and promotes and implements incident management programs through a series of promotional and educational conferences.

D. ACCIDENT FREQUENCIES ARE GOING DOWN — WHILE MILES DRIVEN ARE INCREASING

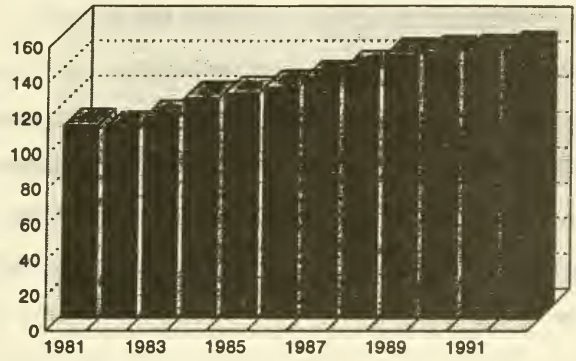
According to DOT, the 1982-1992 10-year comparison shows that the number of fatal accidents has dropped 13.1%, the fatal accident rate has dropped 39.0%, the number of fatalities has decreased 14.8%, while the number of vehicles miles of travel has increased 42.7%.

These safety measures are paying off though the efforts of many people, including Congress, DOT, the motor carrier industry and, of course, drivers. Accidents involving commercial motor vehicles are showing a steady decline. These are figures we can be proud of, but there is still a lot of work to be done.

These safety results build on the programs of the past. Let me turn to changes that need to be made in the future to improve on our safety efforts.

LARGE TRUCKS *** VEHICLE MILES TRAVELED

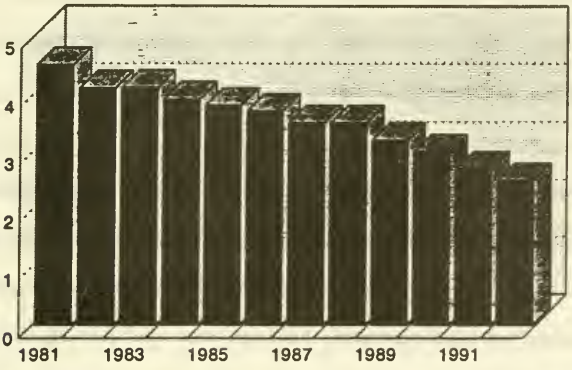
100 MILLION MILES



Source: Federal Highway Administration

LARGE TRUCKS INVOLVED IN FATAL CRASHES

per 100 MILLION VEHICLE MILES TRAVELED. 1981 - 1992



Source: Fatal Accident Reporting System

II. SAFETY ISSUES

A. ALCOHOL AND DRUG TESTING — CHANGES ARE NEEDED

1. DOT should not require pre-employment alcohol testing

We have strongly supported the Department of Transportation's drug testing programs and have joined DOT in court to defend roadside drug and alcohol testing. We also support the principle that the transportation industry must be alcohol free. That is, the driver shall not use alcohol while he or she is on duty, and the driver does not report for work under the influence of alcohol.

Under the mandate of the Omnibus Transportation Employee Testing Act of 1991, DOT published final rules requiring, among other things, pre-employment and random testing of commercial motor vehicle drivers. This includes not only heavy duty truck drivers, but also drivers of church buses, school bus drivers, and drivers working for the Federal, State and local governments, or over 6.3 million drivers.

We have long supported random drug and alcohol testing of truck drivers and support the majority of the new testing rules that go into effect on January 1. However, when it comes to pre-employment alcohol testing, we believe that DOT has not applied a common sense and realistic approach. Pre-employment alcohol testing is a stupidly test, not a safety test. This is because there is nothing illegal about consuming alcohol before

applying for a job. Pre-employment testing for alcohol would not further the goals of the Omnibus Testing Act and would divert resource from other safety activities.

DOT did not base this mandate on a belief that such testing was wise, useful, cost-effective, or in any way likely to promote safety. Indeed, in the preamble accompanying the final rule, DOT more than once questioned the value of pre-employment alcohol testing. DOT enacted this requirement for only one reason: the belief that the Omnibus Act left them no alternative. We do not agree and have filed a court suit to overturn DOT's erroneous interpretation.

2. Random alcohol testing should be done at roadside

Also, for alcohol testing, DOT originally proposed as an option that random testing be done at roadside check points under the Motor Carrier Safety Assistance Program. This is the program that performs over one and a half million inspections of commercial motor vehicles annually. This makes sense to us, as every driver would have an equal chance of being tested, and the driver would never know when the random test would be done. However, DOT did not choose roadside testing in the final rule. Instead, it is requiring employers to do the random testing and owner-operators to make arrangements to test themselves.

The key to the success of any random testing program is that the driver never knows when he might be tested. A roadside program creates the credible threat that a driver, at any time, might be tested. Random roadside testing will have the greatest deterrence impact, since each driver will have an equal chance of being tested. This is the most useful type of testing because it is conducted in the real world and can not be subject to manipulation by anyone.

Random testing should be a part of the roadside inspection program where over 1.6 million commercial vehicles are inspected each year.

3. Random drug testing rate should be 25 percent

FHWA's recent expansion of the drug testing rules to include all holders of commercial driver's licenses (CDLs) will dramatically increase the cost of random drug testing. Based on DOT's own estimates of 6.3 million drivers being subject to these expanded rules, the current 50% across-the-board random rate would necessitate 3.15 million controlled substances tests annually to meet DOT's random test requirements. Based on FHWA's data, a first-year cost per drug test of $190, we estimate a total cost to the industry for random drug testing at a 50% rate to be over 1/2 billion dollars in 1995. We do not believe the safety benefit is worth the monumental cost, especially given the fact that the positive rate for drug use is less than 4 percent according to a one year study

done by FHWA. DOT needs to reinvent the drug rule and find ways to reduce costs.

Data presented on the different transportation modes indicate little or no difference in the positive rate of employees for modes that were testing at the 25 or 50% rate. Moreover, DOT uses a random testing rate of 25% for its own employees, so DOT must believe that there is not a significant decrease in deterrence from dropping the rate from 50% to 25%. Since there is no rational basis to retain the 50% level, it should be reduced to 25% or lower.

4. Use of disposable alcohol screening devices

ATA supports DOT's proposal to allow disposable screening devices in addition to costly and complicated Evidential Breath Testing Devices (EBT) for alcohol testing. However, the timing of this proposal places motor carriers in an untenable situation. The Office of the Secretary and the Federal Highway Administration have issued final rules that require motor carriers to use only EBTs. The effective date for the rules was March 17,1994, with the first implementation date of January 1, 1995 for motor carriers with 50 or more CDL holders. Motor carriers are currently establishing their testing protocols and arranging budgets to implement the new alcohol testing regulations and DOT's failure to have a final decision on which technologies can be used is a serious shortcoming.

Summary

We have four main issues regarding alcohol and drug testing. First, pre-employment tests for alcohol should be dropped. Second, random alcohol testing at roadside inspection points are more effective than a carrier based program. Third, the current random testing rate for drugs at 50 percent is too high. Lastly, alcohol screening devices, other than expensive EBTs must be authorized. If these issues can not be resolved soon, DOT should postpone the effective date of the testing requirements.

B. COMMERCIAL DRIVER'S LICENSE — SYSTEM HAS PROBLEMS

When the Commercial Motor Vehicle Safety Act of 1986 was passed and signed into law, it recognized that the cornerstone of an effective licensing program would be an information system that would serve as a clearinghouse of information on the licensing, identification and the disqualification of heavy-duty vehicle operators. The Act requires states to have a system in place for the free flow of all information vital to ensure that we have only qualified and properly licensed drivers on our highways. Unfortunately not all states are transmitting data on suspensions, convictions and revocations. Without the proper and timely transmittal of data between states, all of the efforts of Congress and others who worked so hard to see the CDL program become a reality will have been wasted. The FHWA has not corrected the problem -- in a Federal Register rule last month (May 18), concerning STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM, states will only need to certify that they

are transmitting violation data as "expeditiously as possible." There is no definition as to how long this is. It is our understanding that the Federal Highway Administration will award a contract for an "effectiveness study" to determine the shortcomings of the CDL program. We do not believe that a "study" is what is needed --- with the size of the FHWA field staff they should be able to quickly determine the magnitude of the problem. The 1986 Act provides for the withholding of highway funds for state noncompliance. Congress should direct the FHWA to consider the withholding of highway funds at the earliest possible date when a state does not have an effective CDL information system in place.

C. CHANGES NEEDED IN ANTILOCK BRAKING SYSTEMS (ABS) RULE

ATA supports the use of antilock braking systems (ABS) and we are encouraging carriers to purchase them on a percentage of their new vehicles.

While we support the phase-in of ABS, ATA is opposed to the proposal by the National Highway Traffic Safety Administration (NHTSA) to mandate such equipment as early as 1996. The issue is not if there should be ABS, but rather when and how to ensure reliability and improve safety. Trucks are not like cars. Cars owners do not have to worry about ABS compatibility, because the same axles are always coupled together. The combination vehicles (tractor-trailer rigs) typically used in fleets use different trailers every day. Moreover the vehicles travel around 100,000 miles per year and continue in such service for about ten years.

Because of that, fleets have very detailed purchase specifications to assure that their old tractors will mate to their new trailers and vice versa, and that there will be enough commonality of components to assure that maintenance and repair can be conducted in a routine way. When it comes to ABS, therefore, motor carriers want to use systems which will be compatible with their fleet and which hold the promise of being reliable for at least ten years.

In the early 1970's the first mandate of ABS resulted in unsafe situations which we do not want to see repeated. Because of a lack of adequate testing those early systems failed often and sometimes took all braking action with them. We want to work with NHTSA now to assure that the new ABS technology does not result in a similar loss of confidence and safety. Unfortunately the Administration's proposed rule could end up doing just that.

While NHTSA is allowed by statute to only write performance rules, much of its ABS proposal is a design standard. We want NHTSA to specify how quickly the ABS will slow a truck in a turn. Instead, NHTSA has specified what kind and how many controllers should be on each axle and required a separate electrical circuit for trailer ABS. A major concern with today's ABS systems is that NHTSA's proposed design standard will bind the agency with the cement of federal regulation and innovations, such as brake-by-wire systems, and disc brakes will be stifled.

Both NHTSA's own tractor and trailer ABS studies and today's fleet experience show high rates of maintenance problems. In three documented instances (two in the NHTSA studies), ABS failure led to brake failure. Studies and fleet experience show high rates of faults and failures of ABS components including sensors and warning light systems. UPS has reported that the ABS on 29% of their post-1990 tractors were inoperable upon delivery from the factory. Carriers recognize that a key to getting systems that are better than are being provided today is that manufacturers must continue selling ABS and learning from consumer experience so they can make appropriate modifications. We do not mind being a part of that process so long as we are sure progress will be made. While we perceive little chance of such progress under the pressure of an immediate 100% mandate, we do believe that a phase-in of a performance standard will open the door to innovation and competition and that improved systems will thereby be offered in the marketplace.

We have urged NHTSA to rewrite its proposed rule in performance terms and phase it in. The phase-in which we seek would require manufacturers to sell 25% of their tractors in 1996 with ABS meeting the administration's standard, 50% in 1997, 75% in 1998 and 100% in 1999. We support a similar phase-in for trailers beginning in 1998. Such a phase-in will allow carriers to explore different brake systems. If manufacturers have an immediate 100% mandate, they will lock into the system which they know best. A phase-in will also enable small businesses to get familiar with maintenance problems and procedures, and establish infrastructure for maintenance.

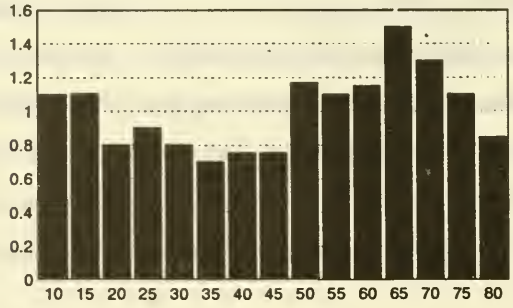
D. FREEZING TRUCK SIZE AND WEIGHT IS A STEP BACKWARDS

The Subcommittee has before it a bill that would freeze all weight limits on the NHS to what they were on January 1, 1994. It would repeal the right of states to determine their own grandfather rights (the Symms Amendment) and require FHWA to decide what loads states could classify as divisible on the National Highway System (NHS). It would also remove the ability of states to interpret their own weight laws. This amendment is bad law and bad policy for the following reasons.

1. The Change is Arbitrary. The Committee has received no comprehensive study demonstrating that the trucks that would be disallowed are unsafe. In fact, as the following chart shows, the study relied on by one group to show that heavier trucks are less safe, actually shows quite the opposite when you look at trucks in 5,000 pound increments.

NORMALIZED ACCIDENT RATES

TRACTOR, SEMI-TRAILER



Gross Combination Weight (in 1,000 pounds)
Source: UMTRI, Analysis of Accident Rates of Heavy-Duty Vehicles

A Federal freeze is inherently illogical because a vehicle that is legal and operating safely in one state can never be legal in another. This change would preclude the introduction of 6 axle vehicles at nominally higher weights that would increase safety and reduce highway wear.

2. **The freeze would perpetuate competitive disadvantages.** The cost of transportation can be reduced by using vehicles that operate safely and hold more. Under this amendment, areas that had more restrictive laws could never reduce their transportation costs. For example, the port of Oakland allows trucks with containers to operate at 95,000 pounds. If Long Beach can never change its rules from the current 80,000 pounds, ships will go to Oakland. This amendment would also leave the United States at a permanent competitive disadvantage to Mexico and Canada, where the weights are higher.

3. **The freeze would reduce intermodal opportunities.** Because most intermodal containers travel at some point by truck, truck weight limits often set the container weight for rail and ship. We should not freeze future intermodal transportation systems based on last year's laws.

4. **The freeze would increase truck congestion.** Economic projections show that freight tonnage will increase 30% by the year 2000. This will increase truck traffic and congestion unless states allow more freight to be carried in trucks. This bill would prevent that option.

Mr. Chairman, the keystone of the 1991 ISTEA legislation was flexibility. I urge the Committee to retain the flexibility that exists in current law for states to decide the size and weight of trucks that will operate on roads that will become the NHS.

E. SAFETY ENFORCEMENT SHOULD NOT BE A STRATEGY TO RAISE MONEY

Since the inception of the Motor Carrier Safety Assistance Program in 1982, ATA has been a strong advocate of this safety program. We have sought increases in funding levels because we wanted to make sure that all carriers were following the safety rules. We believe that the funding for this program should be sustained so the program remains a *safety program*, and not become a program for the states to raise monies. The issue of using fines as a source of revenue and not as a deterrent factor is being addressed by the Commercial Vehicle Safety Alliance by establishing a schedule of uniform sanctions for violations. However, we are hearing growing concerns that tickets or citations are being issued for the most trivial violations and high fines are being assessed. For example, on May 9 at an eastern-central state inspection point, a driver was over hours and placed out-of-service. The driver was only over the 70 hour limit by less than one hour. However, in addition, the driver received a fine of $1,010.00! This is not what the program is all about, and we are willing to work with you and DOT to ensure that the program remain "safety focused." We do not want truck safety enforcement to be the modern day equivalent of the old small-town speed trap.

F. IMPROVEMENTS NEEDED IN SAFETY RATING PROCESS

The FHWA is evaluating the procedures currently used to determine Safety Fitness Ratings and exploring other approaches, in order to develop an improved motor carrier safety fitness determination process.

The safety ratings are used to determine which motor carriers need an in-depth investigation of serious areas of non-compliance. FHWA also uses the rating to sort motor carriers into different programs for educational and enforcement activities. These ratings, which have been assigned to over one hundred thousand motor carriers, are available to the general public and can be obtained by a simple a telephone request.

While the safety rating of a carrier is used as a tool by FHWA in helping to prioritize which motor carriers are scheduled for follow-up reviews, the safety rating has an entirely different impact on the carriers. The for-hire motor carrier industry is under scrutiny by shippers in their efforts to define the "best" carrier to haul their products. One universal criterion being used in shippers' selection of the best carrier is the safety rating. Many shippers are even in the position of only using carriers with a "Satisfactory" rating. Under these conditions an adverse rating can become the "kiss of death" to the continuation of the carrier's retaining the shipper's business. Once a motor carrier loses the shipper's business and the shipper secures the services of other carriers, it is almost impossible for the carrier to recoup the lost business. Accordingly, FHWA must be extremely careful to ensure that the rating process denotes a true and accurate description of the carrier's over-all safety fitness.

We have several items that need to be addressed in determining safety ratings of motor carriers. The first is due process. The severity of an adverse safety fitness determination requires notice to the motor carrier of the proposed change in the rating and an opportunity for the motor carrier

to contest the change. The safety fitness determination must be based on accurate data, with an identifiable method to correct faulty information. Second, the safety fitness determination must be restricted to items that have a direct relationship to the creation of accidents or accident risks. Grouping rating factors and assigning weighted factors distorts the true representation of the motor carrier's safety fitness posture. Finally, forcing all motor carriers into three ratings is too restrictive and fails to give a true representation of compliance.

III. CONCLUSIONS

ATA has in the past, and will continue to support in the future new safety programs that will enhance commercial motor vehicle safety. We have fought hard for programs that showed promise of increased safety. The results of these labors can be seen in accident trend data that show a steady decrease in truck accident rates.

- Common sense must be an element in any new program consideration. We are not seeing this in the new alcohol and drug testing rules because they will not require random roadside testing, and will require preemployment testing for alcohol use that is legal. This will cost the industry millions dollars during the first year. These are dollars that could be used more effectively in other safety programs.

- The commercial driver's license program is the foundation for identifying and keeping unfit drivers off of our highways. We are concerned that there appear to be flaws in the program. Any break-down in the CDL information system needs to be investigated immediately and corrective action taken, since the drivers that are beating the system are the worst drivers.

- While we support the antilock braking systems on trucks, we believe that the mandated dates for compliance and the lack of a performance standard can only result in serious setbacks in the years ahead.

- Roadside inspection is the best way to remove unsafe vehicles from our highways and the best deterrent for motor carriers not to operate a defective vehicle. This program must remain dedicated to safety and not become a formula to enrich the coffers of states or any political subdivision of the state.

- The safety rating process cannot become out-dated. The rating must be fair and accurate and based on factors that truly identify unsafe motor carriers.

Thank your for the opportunity to present these important safety issues to this Subcommittee. I would be pleased to answer any questions.

**Statement Before the
U.S. House of Representatives
Committee on Public Works and
Transportation, Subcommittee
on Surface Transportation**

On Truck Size and Weight

Charles A. Hurley

June 14, 1994

INSURANCE
INSTITUTE
FOR
HIGHWAY
SAFETY

The Insurance Institute for Highway Safety is a nonprofit research and communications organization, supported by the nation's property and casualty insurers, that identifies and develops ways to reduce motor vehicle crash losses. I'm the Institute's senior vice president, and I'm accompanied at this hearing by Institute epidemiologist Elisa Braver. At this subcommittee's request, I'm submitting for the record information about the safety implications of allowing longer, heavier truck rigs on U.S. roads. I'm also submitting an Institute fact sheet (attached) that summarizes large truck safety statistics.

Few studies have compared the risk of crashing according to vehicle length or weight. One problem is that trucks of different weights tend to travel different patterns. For example, rigs weighing 65,000 pounds or more tend to be driven more often on the safest roads during the daytime than are trucks that weigh less. However, some research does shed light on the safety effects of longer, heavier trucks. For example:

➨ The University of Michigan's Transportation Research Institute has compared crash rates for tractor-trailers in various weight categories. After adjusting for travel patterns, the researchers found that trucks weighing 65,000 pounds or more were overinvolved in crashes by about 40 percent, compared with trucks weighing less.[1] Specific findings according to truck weight vary somewhat, but the study's implication is clear — increasing permissible truck weights and axle loads may adversely affect motor vehicle safety by increasing crashes.

➨ Other University of Michigan researchers tried to assess the safety implications of various truck configurations. Their main finding is that changing truck length and weight is complicated and must be undertaken with care. A configuration change that improves one safety problem can significantly worsen another.[2]

The problems introduced by lengthening trucks are different from those associated with increasing truck weight. Longer trailers are more likely than shorter ones to fail to follow the paths of their tractors. Called offtracking, this problem occurs when trucks turn, and it's a special problem at intersections where traffic is heavy. The main problem with allow-

ing heavier trucks is that increasing axle loads significantly increases the likelihood that rigs will roll over during turns.[2] Increasing truck weight can also degrade drivers' ability to steer around obstacles on the roadway. Once again, the likelihood of rollover increases — alarming because tractor-trailers already roll over more easily than other vehicles on the road, and the last thing we need are modifications that might worsen this problem.

Increasing the number of axles on truck rigs won't lessen the safety concerns associated with allowing more vehicle weight. The problem is that, like adding weight, adding axles reduces drivers' ability to steer around obstacles in the roadway. Adding axles also degrades braking efficiency and impedes tight turn maneuvers.

According to researchers at the University of Michigan, "the consequences of small degradations in poor performance can be crucial. The trick is to try to avoid very poor performance in any category of intrinsic safety . . . . The simple process of allowing more load on a vehicle without compensating for the increased load results in vehicles that are less safe than they used to be . . . . When going to more weight-productive size and weight roles, do not allow higher loads on existing vehicles."[2]

Consideration of higher loads is especially unwarranted in light of existing truck safety problems like the ones highlighted below.

➨ Driver Fatigue: Too many drivers are spending too many hours behind the wheel. Among more than 1,000 truck drivers interviewed by Institute researchers in 1992, for example, 19 percent admitted falling asleep at the wheel one or more times in the past month.[3] A further finding was that drivers who violated work rules, mostly by driving longer than the federal limit, reported falling asleep 77 percent more often than truck drivers who said they adhered to work hours limits.

➨ Truck Brakes: Current truck brakes are inadequate. They overheat quickly at speeds faster than 10 mph — and then they fail. Compared with passenger cars, truck brakes have less lining in square inches per pound of vehicle weight. They have lighter brake

drums per pound. There's also less contact between the brake linings and the drums. Therefore, trucks take much longer to stop than cars. According to the National Highway Traffic Safety Administration, loaded tractor-trailers typically take 225-300 feet to stop from 60 mph on a dry road.[4] In contrast, cars take 175 feet. Institute research shows a similar discrepancy — in tests, a car stopped from 55 mph in 133 feet compared with 196 feet for a loaded truck rig. Unloaded trucks took even farther. And truck stopping distances are even longer when brakes are out of adjustment. In this case, the distance to stop can be as much as 450-675 feet from 60 mph on a dry road — of special concern because out-of-adjustment truck brakes are common. According to a representative survey of 1,520 tractor-trailers in five states by the National Transportation Safety Board, 56 percent had brake defects serious enough to put the rigs out of service.[5]

These aren't the only truck safety problems we're facing. But they're among the most important ones, and it makes more sense to address them before we even consider allowing longer, heavier rigs on the road.

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Large Trucks

Large trucks weighing more than 10,000 pounds account for more than their share of highway deaths. This edition of Fatality Facts addresses the problem of deaths and injuries in large truck crashes.

- 4,413 people died in large truck crashes in 1992. Thirteen percent were truck occupants. The majority were in passenger vehicles.
- Ninety-eight percent of the people killed in 2-vehicle crashes involving a passenger vehicle and a large truck in 1992 were occupants of the passenger vehicles.
- Large trucks accounted for 3 percent of registered vehicles and 7 percent of vehicle miles traveled in 1990. They were involved in 11 percent of all 1990 fatal crashes.[1]
- Tractor-trailers have higher rates of fatal crash involvement (3.9 per 100 million miles) than either passenger vehicles (2.5) or single-unit trucks (1.8). But tractor-trailers have a lower rate of crashes involving nonfatal injuries and property damage.[1] The lower rate of nonfatal crashes associated with tractor-trailers reflects their high proportion of miles traveled on well-designed interstate highways. Only 23 percent of all passenger vehicle mileage is on interstates, while tractor-trailers put in 49 percent of their miles on interstates.[2]
- Twenty-five percent of all deaths in large truck crashes occur on interstate highways. Only about 9 percent occur on local roads.
- On toll roads, tractor-trailers have higher per-mile crash rates than passenger vehicles — 6 percent more crashes per mile than passenger vehicles in New York, 23 percent more in Kansas, 34 percent more in Florida, and 69 percent more in New Jersey.[3]
- More large truck crash deaths occur on weekdays than on weekends. More occur from 6 am to 6 pm than at other times of the day. These deaths are distributed approximately evenly by month of year.
- Double trailer trucks (i.e., tractors pulling two trailers) are 2 to 3 times as likely as other truck rigs to be in crashes, according to a 1988 study in Washington State. This comparison of interstate highway crash rates holds after accounting for driver age, type of carrier, driving hours, load, or involvement of other vehicles. Double trailer trucks are also more likely than singles to jackknife in a crash.[4]
- Tractor-trailers with mechanical defects are twice as likely as those without defects to be in crashes.[5] During a 3-day nationwide inspec-

Deaths in Large Truck Crashes

	Tractor Trailer	Single Unit	Unk
1982	4,085	775	340
1983	4,239	769	462
1984	4,472	771	391
1985	4,518	832	361
1986	4,358	841	349
1987	4,256	870	408
1988	4,447	825	371
1989	4,225	850	351
1990	4,054	922	254
1991	3,418	953	437
1992	3,232	1,040	200

Note: Deaths in crashes involving more than 1 truck type are counted more than once.

Deaths in Crashes Involving a Large Truck and a Passenger Vehicle

	Total Deaths	Deaths in Passenger Vehicles	Percent
1982	3,059	2,962	97
1983	3,198	3,095	97
1984	3,235	3,132	97
1985	3,261	3,174	97
1986	3,181	3,097	97
1987	3,236	3,159	98
1988	3,305	3,229	98
1989	3,237	3,154	97
1990	3,139	3,079	98
1991	2,884	2,814	98
1992	2,826	2,771	98

Ninety-eight percent of the people killed in 2-vehicle crashes involving a passenger vehicle and a large truck in 1992 were occupants of the passenger vehicles.

Deaths In Large Truck Crashes

	Total Deaths	Tractor Trailer Occupants	Single Unit Truck Occupants	Occupants (Unk Truck Type)	Others
1982	5,132	722	141	56	4,213
1983	5,403	733	133	95	4,442
1984	5,550	853	125	63	4,509
1985	5,618	747	126	71	4,674
1986	5,474	690	139	64	4,581
1987	5,469	655	112	55	4,647
1988	5,570	706	121	61	4,682
1989	5,362	643	116	63	4,540
1990	5,172	503	126	55	4,488
1991	4,728	447	130	71	4,080
1992	4,413	412	136	31	3,834

Fatal Tractor-Trailer Crashes by Configuration, 1992

	Deaths	Fatal Crashes
Tractor only	223	198
Tractor-trailer	2,742	2,330
Double	177	143
Triple	13	11
Unk trailers	77	71
Total	3,232	2,753

Deaths In Large Truck Crashes by Highway Type, 1992

	Free-ways	Major Roads	Minor Roads	Unk	Total
Single-vehicle crashes	147	175	60	4	386
Multiple-vehicle crashes	816	2,496	246	74	3,632
Crashes involving pedestrians, bicyclists	136	169	73	11	389

Crashes per Million Vehicle Miles, Tractor-Trailers and Passenger Vehicles on Toll Roads

	Passenger Vehicles	Tractor Trailers
Florida	0.89	1.19
Kansas	1.86	2.28
New Jersey	1.48	2.50
New York	1.25	1.33

Distribution of Deaths in Large Truck Crashes by Time of Day, 1992

	Percent
Midnight - 3 am	10
3 am - 6 am	9
6 am - 9 am	13
9 am - Noon	16
Noon - 3 pm	18
3 pm - 6 pm	16
6 pm - 9 pm	10
9 pm - Midnight	9

Twenty-five percent of all deaths in large truck crashes occur on interstate highways. Only about 9 percent occur on local roads.

tion in 1992, 26 percent of trucks were found to have mechanical defects serious enough to require putting them out of service.[6]

- Tractor-trailers require more distance than cars to stop. In tests, a loaded tractor-trailer took 47 percent farther than a passenger car to stop from 55 mph (196 vs. 133 feet).[7]
- After tractor-trailer brakes have been used repeatedly and become hot, braking can deteriorate. The problem is more serious if the truck's brakes aren't properly adjusted. (All cars have self-adjusting brakes, but many tractor-trailers don't. This means truck brakes are more likely to be out of adjustment.) In tests, a car with hot brakes stopped from 55 mph in 133 feet. A loaded tractor-trailer with hot brakes near the limit of recommended adjustment took 3 times as far.[7]
- Antilock brakes, which keep wheels from locking up during braking, are required on new tractor-trailers in Europe's common market countries. Tractors have to have antilocks on all wheels. Trailers must have them on at least 2 wheels on opposite sides. Very few tractor-trailers in the United States have antilocks.
- Federal regulations applying to interstate truck drivers restrict work shifts to 15 hours including a maximum 10 hours driving followed by a minimum 8 hours off duty. No more than 70 hours may be worked in 8 days. Drivers must maintain written logs, but 1,278,611 inspections conducted in 1989 found violations of hours-of-service and logbook regulations sufficient to put 91,218 drivers out of service.[8]
- Drivers who have been behind the wheel on interstate highways for longer than 8 hours are almost twice as likely as drivers who are rested to be involved in crashes.[9] During a 1,200-mile route from Washington to Minnesota, researchers estimated that more than half of the tractor-trailer drivers violated hours-of-service regulations.[10]
- Six percent of all fatally injured tractor-trailer drivers in 1992 had very high blood alcohol concentrations (0.10 percent or more).
- According to an 8-state study, 1/3 of fatally injured truck drivers tested positive for 1 or more drugs of potential abuse — 13 percent for marijuana, 13 percent for alcohol, 9 percent for cocaine, 8 percent for nonprescription stimulants, and 7 percent for prescription stimulants.[11]
- Among 317 tractor-trailer drivers surveyed randomly along an interstate in 1986, 29 percent had used drugs with potential for abuse. Marijuana was detected in 15 percent. Its active ingredient was found in 3 percent, indicating the drivers were either frequent users or had

Distribution of Deaths in Large Truck Crashes by Month, 1992

	Percent
January	8
February	7
March	6
April	7
May	7
June	9
July	9
August	9
September	9
October	11
November	8
December	8

Distribution of Deaths in Large Truck Crashes by Day of Week, 1992

	Percent
Sunday	7
Monday	15
Tuesday	18
Wednesday	17
Thursday	16
Friday	17
Saturday	11

Large trucks accounted for 3 percent of registered vehicles and 7 percent of miles traveled in 1990. They were involved in 11 percent of all 1990 fatal crashes.

used marijuana recently. Nonprescription stimulants were found in 12 percent, prescription stimulants in 5 percent, and cocaine in 2 percent. Fewer than 1 percent of the drivers had alcohol in their blood.[12]

- Tractor-trailers are the likeliest vehicles to have radar detectors.[13]

THE INFORMATION IN THIS FACT SHEET IS BASED LARGELY ON ANALYSIS OF DATA FROM THE U.S. DEPARTMENT OF TRANSPORTATION'S FATAL ACCIDENT REPORTING SYSTEM. FOR FURTHER INFORMATION, SEE THE FOLLOWING REPORTS:

[1]National Highway Traffic Safety Administration. 1993. Summary of medium and heavy truck crashes in 1990. Washington, DC: U.S. Department of Transportation DOT HS 807 953.

[2]Federal Highway Administration. 1992. Highway statistics 1991. Washington, DC: Federal Highway Administration.

[3]Preusser, D.F. and Stein, H.S. 1987. Comparison of passenger vehicle and truck crash rates on toll roads. ITE Journal (December 1987):39-44.

[4]Stein, H.S. and Jones, I.S. 1988. Crash involvement of large trucks by configuration: a case control study. American Journal of Public Health 78:491-98.

[5]Jones, I.S. and Stein, H.S. 1989. Defective equipment and tractor-trailer crash involvement. Accident Analysis and Prevention 21:469-81.

[6]Federal Highway Administration. 1992. Roadcheck '92: wrap up fact sheet. Washington, DC: U.S. Department of Transportation.

[7]National Technical Systems. 1986. Truck/car comparative stopping distance demonstration program. Arlington, VA: Insurance Institute for Highway Safety.

[8]Federal Highway Administration. 1991. Motor carrier safety assistance program: accomplishments and effectiveness. Washington, DC: Federal Highway Administration.

[9]Jones, I.S. and Stein, H.S. 1987. Effect of driver hours of service on tractor-trailer crash involvement. Arlington, VA: Insurance Institute for Highway Safety.

[10]Hertz, R.P. 1991. Hours of service violations among tractor-trailer drivers. Accident Analysis and Prevention 23:29-36.

[11]National Transportation Safety Board. 1990. Fatigue, alcohol, other drugs, and medical factors in fatal-to-the-driver heavy truck crashes. Washington, DC: National Transportation Safety Board NTSB/SS-90/01.

[12]Lund, A.K.; Preusser, D.F.; Blomberg, R.D.; and Williams, A.F. 1988. Drug use by tractor-trailer drivers. Journal of Forensic Sciences 33:648-61.

[13]Ciccone, M.A.; Goodson, M.; and Pollner, J. 1987. Radar detectors and speed in Maryland and Virginia. Journal of Political Science and Administration 15:277-84.

Average Stopping Distances from 55 MPH in Braking Tests

Passenger Car	Feet
Brakes cool	133
Brakes hot	133
Tractor-Trailer	
Loaded with cool brakes	196
Loaded with hot brakes	370
Empty	189
Tractor only	183

INSURANCE INSTITUTE FOR HIGHWAY SAFETY

July 1993, Editor Anne Fleming

Insurance Institute for Highway Safety
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The Insurance Institute for Highway Safety is an independent, nonprofit public service organization that develops and evaluates ways to reduce motor vehicle losses. The Institute's work is wholly supported by the nation's property and casualty insurers, individually and through their trade associations.

TESTIMONY OF JOHN LOEB

PRESIDENT
JAY DEE/TOMFOR TRANSPORTATION
ROOSEVELT, NEW YORK

AND

PRESIDENT-ELECT AND
CHAIRMAN, GOVERNMENTAL RELATIONS COMMITTEE
NATIONAL SCHOOL TRANSPORTATION ASSOCIATION

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
U.S. HOUSE OF REPRESENTATIVES

"OVERSIGHT HEARING ON THE FEDERAL MOTOR CARRIER ACT"

JUNE 14, 1994

Good morning, Chairman Rahall and Members of this distinguished Subcommittee. My name is John Loeb and I am the President of Jay Dee/Tomfor Transportation in Roosevelt, New York. Today, we operate 925 school buses serving 85 school districts in the New York Metropolitan area.

I offer testimony today on behalf of the National School Transportation Association or NSTA. I am privileged to serve as Chairman of the NSTA Governmental Relations Committee, as a member of the Board of Directors and as President-elect. With more than 350 member firms engaged in pupil transportation in all 50 states and Canada, NSTA is the national trade association for contractor owned and operated school buses which now number some 110,000, a very significant portion of the nation's yellow school bus fleet. Our member contractors are predominately small businesses operating fleets of twenty-five or fewer school buses, though there are also some much larger companies which operate many thousands of school buses in multiple states. Our members offer the full range of pupil transportation services to school districts including the provision of vehicles, maintenance, driver hiring and training, sophisticated routing services, fueling and storage.

I am proud that NSTA is a leading national advocate for school bus safety and has worked closely with our member firms and school

districts to pursue advances in the design, performance and operation of school buses which have yielded the best safety record of any mode of surface transportation. NSTA also works with districts to better educate school children, parents, and citizens on the importance of school bus safety and the measures by which it can be enhanced. Our paramount interest, and one never to be compromised, is the safety of the 23 million school children transported to and from school and school-related activities every day of the academic year.

It is in the spirit of this commitment that I come before you today. This Committee has long been at the forefront in working to establish the highest possible standard of safety to be achieved in our industry. And in its wisdom, the Congress has sought to bring uniformity to the application of this standard most recently in two landmark transportation safety initiatives -- the commercial drivers license program, and drug and alcohol testing for transportation workers. Those bold new programs have made a significant contribution to safety, and established a new baseline for application of federal safety requirements.

These Acts established as a matter of law a more comprehensive definition of covered bus operations. State and local governments, and by extension the school districts as well, were not provided any so-called "governmental entity" exemption from these sweeping new requirements. Private for-hire motor carriers and public

agencies are also subject to precisely the same requirements. And the definition of "commercial motor vehicle" has now been clearly established as one with a gross vehicle weight rating of 26,001 or more pounds and designed to transport more than 15 passengers including the driver. Application of these requirements without distinction as to whether the bus is operated by a private or public entity provides uniformity and equity, and most importantly assures the riding public that their safety interests will never be shortchanged.

I bring to your attention today, Mr. Chairman, one relic of a foregone era which has escaped this more rational policy framework and which warrants your attention, and I would hope, your prompt and decisive legislative action.

It is the reality that vehicles engaged in interstate operations generally traverse higher speed arteries or portions of our nation's interstate system that gave rise to the Federal Motor Carrier Safety Regulations. Flowing from an act of Congress in 1935, these regulations have been incrementally modified over the years to reflect modern day exigencies of surface transportation. In 1989, for example, the Federal Highway Administration issued modifications which for the first time subjected all interstate for-hire school transportation operations to the Federal Motor Carrier Safety Regulations. Most recently, and after nearly ten years of foot dragging following express direction from the

Congress in the Motor Carrier Safety Act of 1984, the Federal Highway Administration at long last issued final rules governing private, non-commercial motor carriers of passengers. These vehicles typically are owned and operated by religious-based organizations or churches, scout groups and other local not-for-profit civic and social organizations. In announcing the final rules last February, Federal Highway Administrator Rodney Slater declared that application of the Federal Motor Carrier Safety Regulations to these interstate private bus operations will upgrade safety requirements and performance of all private carriers.

This leaves only one segment of the bus industry which remains beyond the purview of the Federal Motor Carrier Safety Regulations -- school districts, which own and operate their own buses, when engaged in pupil transportation across state lines. Examples of such school-sponsored interstate operations might include: field trips which are an extension of the instructional program; athletic competitions; events to which school clubs have been invited to participate; vocational or trade training; volunteer activities; and recreational outings such as dances, picnics, and overnight camping trips.

Let me illustrate the practical implications of this uneven application of federal safety guidelines. Let us suppose that a fourth grade class from School "X" in Montgomery County, Maryland takes a school-sponsored field trip into the District of Columbia

to visit the Smithsonian museums. Montgomery County, in this instance, owns and operates its own school bus fleet. Nearby school "Y" in Anne Arundel County, Maryland also plans a fourth grade class field trip to the Smithsonian. In this case, the school district arranges for one of its contractor owned and operated vehicles to make the trip. Please keep in mind that both vehicles are transporting fourth grade public school children on a school-related activity to the very same destination and on precisely the same vehicle type.

There is one very important distinction however, Mr. Chairman, and that is by virtue of the so-called "governmental entity" exemption the district operated bus is singularly not required to adhere to the requirements of the Federal Motor Carrier Safety Regulations. Again, this is the only remaining segment of the bus industry which escapes the comprehensive and rigorous requirements of the highest standard of safe vehicle operation we have.

What do these regulations provide for interstate operations that school district owned and operated buses presently are not subjected to. Most notably:

1. driver physical examination and written knowledge testing;
2. observance of hours of service restrictions;
3. keeping of driver logs;
4. pre and post-trip vehicle inspections;

5. accident reporting requirements;
6. certain exterior vehicle identification markings;
7. additional interior signage and warning lights; and
8. spare fuses where no circuit breaker is present.

In our view, if achievement of optimal safety for the nation's 23 million school children is truly our shared objective and ever to be fully realized, then these exacting federal safety regulations must be applied uniformly to any interstate school bus operation without regard to what entity owns and operates that bus. These children, our nation's most precious cargo, deserve no less.

Let me be very clear on one point, Mr. Chairman. The cost implications of the modification we implore you to adopt are modest at worst. This is not about more unfunded federal mandates, issues of competitiveness, or even about costly and burdensome regulatory requirements. This issue, quite simply, is about one thing -- safety.

The costs associated with compliance of the Federal Motor Carrier Safety Regulations, whether borne by a school district or a contractor, are inconsequential. In fact, one school bus manufacturer pegs the added vehicle costs at $100.

Parents would be disturbed to learn that their children are placed at some additional measure of risk under these circumstances, and

that school districts are subject only to a patchwork of inconsistent and insufficient federal and state laws and regulations. Let us resolve together, here today, to rectify this unacceptable double standard and finally bring all bus operations under the Federal Motor Carrier Safety Regulations. In so doing, we will send a clear message to parents of school age children that the highest possible safety standards will always be enforced, and we will bring the Motor Carrier Act into conformance with the commercial drivers license, and drug and alcohol testing programs.

In 1990, the Eleventh National Conference on School Transportation stated that all school bus operators and vehicles should comply with all federal requirements when operating in interstate passenger transportation. The statement of policy was set forth in an official publication entitled "National Standards for School Bus Vehicles and Operations." It reflects the views of the official representatives of State Departments of Education and Transportation, local school district transportation personnel, contract operators, advisors from industry and other interested professional organizations. The Conference was co-sponsored by the National Association of State Directors of Pupil Transportation Services, the National Association of Pupil Transportation (which represents school district owned and operated vehicle fleets), the National School Transportation Association, the School Transportation Section of the National Safety Council, and the School Bus Manufacturers Institute.

In short, Mr. Chairman, every interested party engaged in the day-to-day issues associated with school transportation crafted and advanced this policy statement.

At this time, I would ask that a letter directed to you on May 3 from Cecil C. Dolin, State Director of School Transportation and Facilities for the State of West Virginia, Department of Education be included in the hearing record. In his thoughtful letter, Mr. Dolin speaks to the recommendations of the 1990 National Conference and embraces our view that the Federal Motor Carrier Safety Regulations must be applied comprehensively and consistently in the name of safety.

In conclusion, the time for preserving "sacred cows" in our nation's highway safety laws and regulations has passed. The public must know that the highest possible safety standard will always be adhered to without regard to ownership, location, or prior law exemptions. This problem requires the Subcommittee's early attention. The Federal Highway Administration informs us that for it to pursue the necessary rulemaking that will remedy this problem, legislative direction is required. Today, we solicit your support for such legislative remedy, and thank you for your continuing commitment to safety on our nation's yellow school buses. I am pleased to respond to any questions which you or other members of this Subcommittee might wish to pose. Thank you.

SUBCOMMITTEE ON SURFACE TRANSPORTATION OF THE HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

HEARING ON TRUCK SAFETY

JUNE 14, 1994

CHARLES RATLIFF
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Mr. Chairman: I am Charles Ratliff, Senior Group Manager of Operations for Frito-Lay, Inc., the nation's leading snack food company and a consistent supporter of trucking safety. An operating division of PepsiCo, Frito-Lay employs more than 28,000 people nationwide, manufacturing and distributing over 100 product lines. My responsibilities include managing the company's fleet operations.

I am here today representing Frito-Lay as a member of the National Industrial Transportation League, which represents a broad spectrum of companies using all modes of transportation to move goods in intrastate, interstate and international commerce. As shippers, the safe movement of goods is our primary concern. I thank Chairman Rahall and Members of the House Surface Transportation Subcommittee for allowing me to refute H.R. 4496, the proposal to ban trailers longer than 53-feet.

Let me begin by saying that at Frito-Lay, we are proud of the professionalism of our drivers and the safety record of our fleet. Frito-Lay's total fleet of trucks is the third largest private carrier fleet in the country. Last year, our fleet traveled in excess of 231 million miles, consuming nearly 25 million gallons of fuel. More than 1,100 over-the-road drivers and 12,000 route sales personnel deliver our products from our plants and distribution centers directly to retail outlets. Our distribution fleet, which includes 850 tractors and 2,100 trailers travels more than 76 million miles annually. It is this fleet that would be directly affected by the proposal to ban trailers longer than 53-feet.

Frito-Lay snack foods are light and bulky. Shipments of our finished goods almost always cube out long before reaching the 80,000 pounds gross vehicle weight limit. We are not unique in

this aspect. The ability to ship in longer trailers helps Frito-Lay and other low density shippers reduce costs per unit of transportation. Moreover, the increased productivity of these larger trailers reduces the number of miles of wear and tear on our nation's highways. Like many shippers of light and bulky products, Frito-Lay has developed a highly efficient, cost-effective distribution system utilizing trailers designed to meet the allowable length restrictions in the various states.

A safe driving environment is a priority for Frito-Lay, not only to project a positive image to our customers and consumers, but to protect our employees and enhance the company's efficient operations. We are proud of the fact that more than one-third of our over-the-road drivers have at least one million accident-free miles under their belt, and 38 more have reached two million

accident-free miles. We are proud that we were the first company to get the Department of Transportation's approval to install on-board computers on our trucks, which help monitor our drivers' speed, actions, and ensure accurate reporting.

To maintain this enviable safety record, we train our drivers thoroughly, and our truck maintenance is unsurpassed. Equally important, our intrastate trucks receive the exact same maintenance that our interstate trucks receive. As a matter of fact, the drivers and trucks are used interchangeably for inter-and intrastate loads.

Ten percent of Frito-Lay's tractor trailer fleet exceeds 53-feet in length. Replacing these trailers with 53-foot trailers would result in an additional two thousand trips annually, forcing our fleet to

drive an additional 800,000 miles. Further, it would increase the cost of our consumer products over one million dollars a year!

We strongly believe the proposal to roll back trailer lengths to 53-feet is a bad idea for the following reasons:

Safety -- Safety is achieved through the strict enforcement of safety laws and regulations, not from limiting the size and weight of a vehicle. Obviously the safest mile is the one that never has to be driven.

Highway Congestion -- Shorter trailers will increase the number of trips, miles and will result in a more congested highway system.

Environmental Concerns -- Additional trips and miles will add more wear and tear to the National Highway System than would the slightly increased axle weight on longer trailers hauling light and bulky goods.

Consumer Goods Cost -- The cost of consumer goods would be increased by the additional distribution expenses generated by more trips and miles, resulting in requirements for increased capital assets with no offsetting reduction in tax dollars required to support the National Highway System.

Competitiveness -- Increased distribution costs put a greater burden on American produced goods competing with imported goods. Another step backward in the arena of global competition.

In closing, let me reiterate that limiting tractor trailers to 53-feet or less is not in the best interest of the consuming public and will not benefit the National Highway System in any way.

I appreciate the opportunity to appear here today to discuss this important issue. I will be happy to answer any questions.

STATEMENT OF RODNEY E. SLATER, ADMINISTRATOR
FEDERAL HIGHWAY ADMINISTRATION
BEFORE THE
SUBCOMMITTEE ON SURFACE TRANSPORTATION
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
U.S. HOUSE OF REPRESENTATIVES
JUNE 14, 1994

MOTOR CARRIER AND HIGHWAY SAFETY ISSUES

Thank you, Mr. Chairman. I am pleased to be here this morning to discuss a number of issues involving the safe operation of our Nation's highways. Joining me this morning is Mr. George Reagle, the Federal Highway Administration's Associate Administrator for Motor Carriers. The issues we will discuss are of particular concern to the Federal Highway Administration (FHWA) especially in light of Congress' current consideration of legislation to designate the National Highway System (NHS). Approval of the NHS is the FHWA's highest surface transportation priority this year. I applaud your efforts, Mr. Chairman, and the efforts of all on this Committee to make the NHS a reality.

THE NATIONAL HIGHWAY SYSTEM

While the NHS, as currently proposed, includes only 4 percent of this country's public roads, it carries 40 percent of the Nation's highway traffic, 70 percent of the commercial truck traffic, and **80 percent** of the tourist traffic. To come back to Washington for this hearing, I flew from Nevada where over the weekend I attended the dedication of a new scenic byway. The importance of access to local tourist facilities, which add so much to the Nation's economy and quality of life, cannot be overstated. We could talk all day about the benefits of the NHS for tourism, the economy, etc., but that is not our reason for being here -- the reason is truck safety.

I recently traveled through 14 States in 14 days on a 3,500-mile road tour. We started in Buffalo, New York, and wound our way South to the Mexican border at Laredo, Texas. I saw firsthand, as I traveled on mostly non-interstate roads and mainly on the NHS, the condition of our Nation's highways. I met with officials and I talked with highway users. I saw the critical importance of a highway network focused on moving people and goods. One thing I spent considerable time on was the area of motor carriers; for instance, on the first day of the trip we examined the problems relating to securement of heavy steel coils, an area that this Committee examined last year. The ability of all vehicles, including trucks, to move efficiently, safely, and, therefore, reliably is a critical component of the success of our transportation system and the economy as a whole. We believe that approval of the NHS, which focuses Federal resources on an integrated network of highways linked to key intermodal points, is essential to America's productivity in the 21st century. While freight moves by all modes -- rail, water, and air -- trucks represent a vital component of almost every delivery of cargo to its ultimate destination. Consider these facts: trucking represents 77% of the nation's freight bill and 42% of the total tonnage hauled by all modes. We assure you that we will continue to work with this Committee on the NHS and again we appreciate the expeditious handling of the approval legislation.

THE NHS AND SAFETY

Because one of the principal reasons for this hearing today is revision of the Federal laws governing the size and weight of commercial motor vehicles, I would like to address generally the relationship of the NHS and motor vehicle safety and then the pending size and weight proposals.

Recent years have seen a remarkable improvement in motor vehicle safety. In 1992, the number of fatalities on our Nation's highways fell below 40,000 for the first time in 30

years. Though still too high, this number is remarkable when one considers that road traffic has tripled in that time. Although the number of miles traveled on American roads has skyrocketed, the fatality rate -- that is, fatalities per 100 million vehicle miles traveled -- has dropped to a record low. If the rate were the same today as in 1956 we would be losing 134,000 people a year. During this same period, heavy truck safety has improved dramatically. Nevertheless, heavy trucks constitute one of our most serious safety problems. Fatality rates for heavy truck traffic remains more than 50 percent higher than rates for automobiles.

Highway safety is health care reform that's already happening. Many agencies and groups as well as individuals contributed to this remarkable achievement. This progress is a product of safety belts and airbags, crackdowns on drunk and drugged driving, enhanced motor carrier safety, the use of state-of-the-art technology to improve roadway design and vehicle safety standards -- and more.

But let's not forget the tremendous safety impact of the Interstate System. The fatality rate on Interstate highways is less than half the rate for other highway systems, despite the fact that it carries 22 percent of all highway travel in this country and 49 percent of our heavy truck traffic. It's not that people are extra cautious on the Interstates, as I'm sure you've seen for yourselves. Rather, modern design standards and access control have made the difference and they can be applied to any road, on or off the Interstate System. Constructing or reconstructing non-Interstate highways to standards appropriate for their function and type and volume of traffic they serve will make a difference. You don't have to go all the way up to full Interstate standards to really improve highway safety. Designation of the NHS will allow us to take the next step forward in highway safety.

MOTOR CARRIER SAFETY

Mr. Chairman, I'd like to discuss with you and members of this subcommittee our pro-active agenda for truck safety. This is a direct outgrowth of the Secretary's Strategic Plan -- safety being our highest priority. During my confirmation process, I was asked by Senator John Warner, a member of the Senate Environment and Public Works Committee, if I was to be confirmed, would our roads be safer? I replied "Yes" to that question, and I hold fast to that conviction still. We recently were fortunate to appoint George Reagle, who is with me here today, as our Associate Administrator for Motor Carriers. Mr. Reagle brings to us a wealth of experience in the transportation safety field, having served as an Associate Administrator with the National Highway Traffic Safety Administration, and then as a member of the National Transportation Safety Board.

Although the safety of commercial vehicles has improved, we will not be satisfied until we have a crash-free environment. One might laugh at this notion, but our vision for truck safety is to put programs in place to make this a reality in the long term.

Let me discuss the areas of emphasis Mr. Reagle and I believe will help us get there:

First, human factors. We believe strongly that more emphasis must be given to this part of the equation. The National Transportation Safety Board statistics show that across all modes of transportation 80-85% of the causative and contributing factors in crashes is human failure. We need to recognize this fact in our existing programs by widening them to include speed management, impaired driving, safety belt and motorcycle helmet usage, increased emphasis on fatigue research, and the motor carrier's safety policies and procedures. We are currently doing in-depth research on fatigue to determine its magnitude as well as appropriate countermeasures. There is also some promising "in-cab" technology that may help in the

long term. We are also working with our sister agency, the National Highway Traffic Safety Administration, on some of these issues.

Next, we accumulate considerable data on motor carriers and drivers. This includes accident and fatality data as well as the results of vehicle and driver inspections conducted at the roadside. In the past, we have not placed as high a priority on analyzing this as we should have. We have begun this process. We need to know causes, as well as relationships. For example, what is the relationship between out-of-service rates and accident causation? What are the characteristics of good and bad drivers? These are just a few of the critical questions we are pursuing.

The questions that we *can* answer should be driving our program. They should be the underpinning for our efforts. I have spoken of one of those already - human factors. The critical questions we cannot answer should be resolved through research and evaluation.

That is our next area of emphasis - a very focused research program that seeks to answer questions on human factors as well as technology.

Finally, we must pursue technology that utilizes Intelligent Vehicle-Highway System (IVHS) concepts so we are effective and efficient in our work and allow safe drivers, vehicles and motor carriers to be more efficient. There are other state of the art technologies outside of IVHS. For example, we know that disc brakes, which dissipate heat, are in much wider use in Europe than in the United States. What steps can be taken to evaluate this technology? We also need to explore the appropriate role of the Federal Government in encouraging the use of new technology. For example, we know commercial vehicle component manufacturers are working on an electronic braking system for commercial vehicles. What can we do to evaluate these new technologies? When you discuss these issues with the component manufacturers and the carriers, you find generally that

incorporating new technologies into daily use is often inhibited by economic disincentives. Again, what role can and should the Federal Government play to create incentives that reward exploring the use of new types of equipment?

This is the thrust of our new motor carrier initiatives. Let me discuss some important issues we have on-going or completed in the last six months.

- First, let me say that in all of our safety initiatives, we work hand-in-hand with our modal partners at the Department who are involved in related surface transportation safety matters. Our cross-modal safety efforts were highlighted at this Committee's recent Investigations and Oversight Subcommittee hearings.
- In December, the Secretary took a strong safety position by banning the use of radar detectors for interstate commercial vehicles.
- We completed the rulemaking on private motor carriers of passengers, which extended the Federal Motor Carrier Safety Regulations to a class of operators not previously subject to Federal regulation. Now, buses operated by churches, civic associations, Scouts, and other charitable institutions will be subject to the safety standards. This was a contentious issue (since at least 1982), but we did the right thing for safety.
- We initiated a Washington, D.C., Beltway Task Force designed to make this road safer. Through our facilitated efforts we have the appropriate people from the contiguous jurisdictions, not only talking with each other, but formulating substantive recommendations that <u>will</u> make a difference. The States have already approved elimination of trucks from the left lane of the Beltway. We will have a follow-up meeting of this group in August to review

accomplishments and plan future actions. We hope this effort in our own back yard will serve as a model for other cities.

- Within our own national motor carrier safety programs, we are raising the priority of both bus safety and hazardous materials carriers. These classes of carriers will enjoy our heightened attention.
- The Administration has requested full authorized funding of the Motor Carrier Safety Assistance Program, or MCSAP, as a component of the Administration's desire to fully fund the core programs of the Intermodal Surface Transportation Efficiency Act in FY 1995.
- We have finished the first phase of our "zero-based review" of our motor carrier regulations, which seeks to take a fresh look at our rulemaking process, to find out what the major problems are, and to create a new set of regulations primarily based on analysis, research, and uniformity.
- We have issued alcohol and drug testing regulations, which cover over 550,000 motor carriers and over 6 million drivers, both inter- and intrastate.
- In cooperation with officials of the Maryland Department of Transportation, a few weeks ago we unveiled the "Sharing the Road" campaign with the distribution of over 500 TV public service announcements, 1,000 radio announcements, and nearly 2,000 press kits containing campaign information and print announcements.
- Lastly, we have issued important regulations on: State compliance with the 22 provisions of the Commercial Motor Vehicle Act of 1986 and with regard to sanctions for drivers who violate an out-of-service order -- that is, move their vehicle before the needed repairs have been made.

Mr. Chairman, our changes create a program that is preventive in nature, elevates the human part of the equation to a higher level and uses technology as our partner in achieving a more effective and efficient program.

Finally, Mr. Chairman, on an issue related to highway safety, yesterday Secretary Peña announced and delivered to the Hill proposed legislation and a comprehensive, multi-modal Action Plan to reduce rail-highway grade crossing and trespasser accidents and fatalities.

The proposed Rail-Highway Grade Crossing Safety Act of 1994 would give States additional options in dealing with grade crossing hazards. Key provisions include (1) providing cash incentives to local governments that close dangerous crossings or that examine grade crossing hazards on a corridor basis, (2) permitting States to use 100 percent Federal funding to close crossings, and (3) increasing funding for public education programs dedicated to reducing fatalities resulting from crossing collisions and trespassing.

The Action Plan's recommendations are designed to make government work better, provide flexibility to the States to address this problem, and improve public awareness of crossing safety through public/private partnerships. The following six goals are the guiding principles:

- Enhance enforcement of traffic laws at crossings;
- Enhance rail corridor crossing reviews and improvements;
- Expand public education activities;
- Increase safety at private crossings;
- Improve data and research efforts; and
- Prevent rail trespass tragedies.

The plan includes 55 recommendations and initiatives designed to address and implement these principles. We have already implemented several dealing with commercial vehicles, including sending notices to all 280,000 interstate motor carriers regarding grade crossing safety; also we will work with the States on sanctioning drivers who violate grade crossing laws.

TRUCK SIZE AND WEIGHT

Now let me discuss turn to the issue of the size and weight of trucks. We have heard various proposals recently, some of which are incorporated in legislation before you which would freeze or roll back weight limits, length limits, State authority, or grandfather rights.

The question of appropriate size and weight limits for trucks has always been a difficult one. It conjures up images of "grandfather rights" from the Interstate era, conflicting views of proper State-Federal relationships, rival economic interests, and uncertainty as to the operational safety of various types of trucks. The subject is at least as challenging as the task of approving the NHS. Extended fact-finding and debate are necessary to do justice to truck size and weight issues.

Federal vehicle weight limits (both gross vehicle weight and axle weights) currently apply only on Interstate highways. Considering its size, extending these limits to the entire NHS, as has been suggested by some, would represent a major extension of Federal activity into an area of traditional State authority. Truck size and weight issues are extremely complex; they relate not only to questions of highway safety and stewardship but to local, State, and national economic performance. The Department recognizes its overall responsibility for highway safety, as emphasized in Secretary Peña's Strategic Plan. At the same time, as transportation is becoming a larger part of the goods *production*, as well as

distribution systems, the effects of additional regulation on productivity take on renewed significance.

It is our view that any decision to establish national weight standards for the entire NHS should only be taken after thorough study and analysis of all the benefits and costs of such an action to all highway users as well as to the economy.

H.R. 4496, which you are considering today, would freeze the weight limits in effect on non-Interstate NHS highways at the start of this year (including weights authorized only by permit). It would also limit semitrailer lengths to 53 feet. Further, the bill would repeal the provision allowing States to determine their own grandfather rights (the so-called 1982 Symms amendment). Instead, the Department of Transportation would be required to codify and freeze all such rights claimed by the States or recognized by the Department before the start of this year. Finally, the bill would require rulemaking to define the term "nondivisible load." This and other similar bills have the laudatory goal of increasing highway safety and addressing highway maintenance concerns by limiting the operations of larger trucks. We support these goals but believe that solutions may be more complex.

The Surface Transportation Assistance Act (STAA) of 1982 grandfathered all trailer lengths longer than 48 feet in lawful operation in that year, i.e., both the current and prospective fleet. The FHWA later determined, through rulemaking, that 10 States allowed trailers more than 53 feet long. H.R. 4496 would repeal that provision, while allowing only those trailers more than 53 feet long that are now in operation, or built in the year following passage of the bill, to remain in use.

The largest widely available trailers have grown from 45 feet to 53 feet in length since the early 1980s (and width has increased from 96 inches to 102 inches). This increase has produced significant operational efficiencies for motor carriers and shippers. Longer

trailers are used when the commodities they are carrying "cube out" before they "weigh out." That is, relatively low-density cargos can fill a vehicle to capacity before it reaches the 80,000 pound Interstate weight limit.

The current statutory scheme for truck size and weight limits is far from perfect. Vehicle size and weight issues are so difficult and contentious that many Administrations have abandoned the field entirely. The result has been a fragmented and increasingly incoherent set of laws determined by the needs of the moment and the path of least resistance. I was recently astonished to discover that the Federal Highway Administration has not made a concerted and comprehensive effort to analyze size and weight issues in the last 30 years -- not since the Bureau of Public Roads, which was then part of the Department of Commerce, submitted House Document No. 354 to the House Committee on Public Works in August of 1964, when Lyndon Johnson was President.

I believe that a national, and indeed a global, vision is needed to guide us into the 21st century. All of our recent initiatives have this goal in mind; that is how we approached NAFTA; it is how we are approaching the NHS. I believe a fundamental reexamination of all vehicle size and weight issues is necessary. We as a Nation simply cannot afford to continue muddling along with no vision for the future. We are concerned about the safety of our highway systems. We are concerned with the integrity of the physical infrastructure. We will prioritize this vision and we will begin the thorough reexamination I mentioned above; first internally and then through a dialogue with all affected parties, much in the manner of our ongoing zero-base review of motor carrier regulations.

Again, thank you for the opportunity to be with you this morning. I am glad to be able to discuss with you issues so important to the prosperity and well-being of our country. I will be pleased to respond to any questions you may have.

Before the

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Subcommittee on Surface Transportation

Statement of the

Owner-Operator Independent Drivers Assn., Inc.

Oversight Hearing
On Motor Carrier Safety

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June 13, 1994

Before the
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
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Statement of the
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Mr. Chairman, members of the Committee, and Committee staff, my name is Todd Spencer. I am Executive Vice President of the Owner-Operator Independent Drivers Assn., Inc. ("OOIDA" or "Association"). OOIDA is a non-profit corporation incorporated in 1973 under the laws of the State of Missouri, with its principal place of business in Grain Valley, Missouri. The more than 29,000 members of OOIDA are small business men and women residing in all 50 states and Canada who collectively own and operate approximately 30,000 individual heavy duty trucks and small truck fleets. Small business truckers represent nearly half of the total number of Class 7 and 8 trucks operated in the United States. OOIDA is the national trade association representing the interests of independent truck owner-operators, motor carriers and professional drivers at both the federal and state levels.

The Association represents the views of owner-operators small business truckers on issues involving all aspects of highway safety. Its representatives serve on various committees of the National Governors' Association, the Commercial Vehicle Safety Alliance, the Professional Truck Driver Institute of America, the American Association of State Highway and Transportation Officials, and other groups involved in highway safety.

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The Association was an active participant in the development of the Commercial Motor Vehicle Safety Act of 1986 and the Intermodal Surface Transportation Efficiency Act of 1991 ("ISTEA"). OOIDA has long been a proponent of steps to improve safety of equipment and drivers. OOIDA offers its views here in order to bring to the attention of the Committee to three areas where the Association believes that motor carrier safety can be significantly enhanced.

I. MANDATORY ENTRY-LEVEL DRIVER TRAINING IS URGENTLY REQUIRED

OOIDA believes mandatory standardized training of entry-level truck drivers is long overdue. In 1976, the FHWA's Bureau of Motor Carrier Safety ("BMCS") issued an Advance Notice of Proposed Rulemaking ("ANPRM") regarding training of commercial vehicle drivers. That Notice stated:

> It has been concluded that there is need to improve tractor-trailer driver training programs by standardizing curriculum content and duration, specifying minimum requirements for types of training materials, types of vehicles and facilities to be used, and by specifying the qualification of instructors, in order to reduce accidents through improving tractor-trailer driver skills.[1/]

That conclusion, reached more than 17 years ago, is even more relevant today given the poor economic state of the trucking industry and the large numbers of entry-level truck drivers that are currently coming into the industry.

Since 1976, the overall size, weight, and complexity of tractor-trailers has increased substantially. Combination vehicles have come into much wider use, while at the same time the size of the average passenger vehicle has decreased. The total number of vehicle miles

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1/ Tractor-Trailer Driver Training Standard - Recommended Practice Phase, 41 Fed. Reg. 22,584 (June 4, 1976).

traveled has also increased substantially and highway congestion in urban areas has become chronic. Traffic counts on the Washington beltway alone have increased by more than 50 percent over the past ten years. This situation underscores the need for competent drivers of commercial vehicles and cries out for a mandatory national standard for entry-level tractor-trailer driver training.

After the 1976 Notice of Proposed Rulemaking, nearly 8 years elapsed before the Department of Transportation announced that "Proposed Minimum Standards for Training Tractor-Trailer Drivers" were available to the public. Those proposed standards called for a minimum 320-hour course that, on a full time basis, would take 8 weeks to complete. In 1985, the BMCS made available a "Model Curriculum" that training programs could use to meet the proposed minimum standards. The "Model Curriculum" totals approximately 2,500 pages. Since issuance of the curriculum, no additional steps have been taken by the FHWA to fulfill its original intention to issue a national training standard that "would become a minimum mandatory standard."

A number of other institutions involved in highway safety have called for a mandatory entry-level truck driver training standard. The National Highway Safety Advisory Committee observed:

> The process by which one becomes a heavy truck driver in the United States is loose, informal and totally unregulated. In contrast, an airline pilot, a locomotive engineer, a barge pilot, etc., must all be trained (and in some cases certified) before they are allowed to transport people or goods.[2/]

2/ National Highway Traffic Safety Administration, "Commercial Vehicle Safety: A Report to the Secretary of Transportation by the National Highway Safety Advisory Committee," (May 1985), p. 2. The comments of the Advisory Committee are illustrated in the comparison of licensing and certification standards of operators in the four major transportation modes -- locomotive engineers, commercial airline pilots, merchant seamen

In addition, the National Transportation Safety Board ("NTSB") conducted a major study of training and licensing standards for tractor-trailer drivers. It stated:

> Substantially upgrading the instruction offered by training schools cannot be expected to improve truck safety if sufficient incentives remain lacking for truck drivers to attend those schools. The Safety Board has therefore determined that a requirement of formal training should be established for truck drivers. That requirement should stipulate not only that prospective truck drivers obtain instruction, but also that they demonstrate before graduating that they have mastered the skills being taught.[3/]

The NTSB went on to state: "Even though truck driving is a specialized skill, with the potential for disastrous consequences when performed improperly, there is no training requirement for the practitioners of that skill."[4/]

These two reports, issued after the Department of Transportation released its "Model Curriculum," both called for a mandatory national driver training standard. The reports underscore the lack of uniformity, and in many cases the lack of any formal training at all, for entry-level commercial vehicle drivers. In particular, the report of the National Highway Safety Advisory Committee notes that the failure to establish formal training requirements for commercial vehicle operators is contrary to the entry-level requirements found in other transportation modes. Ironically, the operator of a commercial motor vehicle is not required to be trained, yet he or she must operate in the most heavily congested areas, and must operate in an environment with the largest number of other transportation users.

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and commercial truck and bus drivers -- attached as Exhibits 1 through 4.

3/ National Transportation Safety Board, "Safety Study: Training, Licensing, and Qualifications Standards for Drivers of Heavy Trucks," NTSB/SS-86/02 (April 17, 1986), p. 1. (Emphasis added) (hereinafter "NTSB Study").

4/ Id. at p. 53.

Failure to require entry-level training of truck drivers while requiring it in other transportation modes is unconscionable. In its recent transportation policy statement, "Moving America," the Department of Transportation itself stated that "By far the greatest number of transportation-related accidents each year occurs on the Nation's streets and highways.[5/] The Association must ask, therefore -- What possible justification could exist for requiring training only in transportation modes where there are already fewer accidents? Voluntary training standards have not worked. The U.S. Congress' Office of Technology Assessment ("OTA") authored a major study of truck safety entitled, "Gearing Up for Safety". Among other findings, OTA concluded that a mandatory training requirement was desirable. The report states:

> A vital element in preventing accidents is the driver's skill and awareness; both can be increased through appropriate training. Surveys indicate that many heavy truck drivers have not received any formal training prior to going on the road, although many companies will hire only drivers with verifiable experience. OTA research shows that many drivers involved in accidents never had any training or significant retraining, and that level of driver training is frequently a factor cited on accident reports. **OTA concludes that special attention to training requirements and close scrutiny of the guidelines for the commercial driver's license test as they are developed by DOT are warranted. To ensure that training issues are adequately addressed, Congress may wish to require national guidelines for driver training and certification for truck driver training programs.**[6/]

[5/] U.S. Department of Transportation, "Moving America: New Directions, New Opportunities," (February 1990), p. 83 (hereinafter "Moving America").

[6/] U.S. Congress, Office of Technology Assessment, "Gearing Up For Safety: Motor Carrier Safety in a Competitive Environment," OTA-SET-382 (Washington, D.C.: U.S. Government Printing Office, September 1988), p. 12 (emphasis in original, underscoring added) (hereinafter "Gearing Up for Safety").

Reliance on voluntary industry initiated training is not working. The level of driver training is the second most frequently cited factor in motor carrier accidents.[7/] Despite this alarming fact, few entry-level commercial vehicle drivers receive formal training of any type. For example, a 1987 survey of 1,800 Florida truckers indicated that only 23 percent receiving formal driver training instruction prior to becoming professional drivers.[8/] OOIDA believes that this 1987 survey indicates a level of training that is likely higher than would be the case today.

Specific data regarding the role of commercial vehicle driver training as a discreet causal factor in highway accidents is not available. One statistic that is available can be used as a surrogate for the level of training. That statistic is the years of experience of drivers involved in fatal crashes by years of employment with their current company. This data, which is available from the Fatal Accident Reporting Service ("FARS"), indicates that 72 percent of the interstate drivers involved in fatal crashes in 1988 had been with their current company for 3 years or less.[9/] The FARS data suggests that there is likely to be a strong correlation between experience and involvement in crashes.

While intuition suggests that adequate entry-level training will result in increased highway safety, broad-based empirical data on the value of training are similarly unavailable. However, anecdotal information based on the experience of motor carriers that have

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7/ "Gearing Up for Safety" at p. 145.

8/ Regular Common Carrier Conference, "Highway Common Carrier News Release," (November 16, 1987), p. 1.

9/ Fatal Accident Reporting Service, *cited in* U.S. Department of Transportation, "A Summary of Fatal and Non-Fatal Crashes Involving Medium and Heavy Trucks in 1988," DOT HAS 807 609 (February 1990), p. 23.

implemented substantial training programs underscores the benefit of adequate training. The Office of Technology Assessment cited "rigorous" training procedures as a significant factor in the ability of United Parcel Service to achieve an accident rate that is one-tenth the national average.[10/] Another report indicates that when a large general commodities motor carrier implemented a training program, it reported a 14 percent decrease in line-haul accident frequency, despite a 38 percent increase in line-haul mileage.[11/] This actually represents a 19 percent decrease in accidents.

If the experience of this motor carrier is typical of the benefit that can be realized from proper training, and a 14 percent decrease in accidents is achieved through uniform mandatory training for all entry-level drivers, the results are astounding. In 1988 there were an estimated 331,000 crashes involving medium and heavy trucks. Of these, 4,893 resulted in fatalities while 80,500 resulted in nonfatal injuries.[12/] In addition, to a cost saving of $6.6 billion in crash related medical expenses, a 14 percent reduction in these crashes would result in 46,340 fewer crashes, 11,270 fewer injuries and 685 lives saved!

Not all costs and benefits to society are directly related to the number of injuries or deaths avoided. Safety enhancements lead to a number of other economic benefits that are not as easy to quantify. For example, the National Highway Traffic Safety Administration estimated that Americans spent $3.3 billion for medical treatment of injuries sustained in

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10/ "Gearing Up For Safety," p. 144.

11/ Thomas M. Strah, "Truck Driver Training: A Matter of Standards," Transport Topics, (January 18, 1988), p. 16.

12/ U.S. Department of Transportation, "A Summary of Fatal and Nonfatal Crashes Involving Medium and Heavy Trucks in 1988," DOT HS 087609 (February 1990), p. i.

traffic accidents in 1980.[13/] They spent approximately $23.3 billion in increased insurance premiums and legal fees associated with highway accidents, and an additional $6.0 billion to repair vehicle and property damage resulting from those accidents.[14/] The total figure -- an astonishing $32.6 billion -- does not take into account other costs associated with lost productivity, and the costs of worker's compensation, unemployment compensation, disability payments or other welfare benefits paid to accident victims.

Two powerful and interrelated economic forces have combined to prohibit all but a few motor carriers from providing adequate entry-level driver training. The first of these is the partial deregulation of the motor carrier industry brought about by passage of the Motor Carrier Act of 1980. Since 1980, the number of motor carriers holding operating authority issued by the Interstate Commerce Commission has grown from 18,045 in 1980 to 46,389 in 1991.[15/] In its most recent Annual Report, the ICC stated that "Motor carriers face intense competition, among themselves as well as from other modes."[16/] This intense level of competition is prevalent in all sectors of the industry. The overall level of "intense competition" has forced a substantial reduction in motor carrier freight rates, and a resulting reduction in motor carriers' profit margins. In all but a handful of special circumstances, motor carriers simply do not have the available resources to invest in adequate training programs for entry-level drivers.

13/ Transportation Research Board, "55: A Decade of Experience," Special Report 204, (1984), p. 89, *citing* National Highway Traffic Safety Administration, "The Economic Cost to Society of Motor Vehicle Accidents," 1983.

14/ Id. at pp. 89-90.

15/ Interstate Commerce Commission, 1991 Annual Report, p. 47.

16/ Id.

A second, interrelated factor, precludes motor carriers from providing adequate in-house training programs for their entry-level drivers. This factor is the so-called "driver shortage."[17/] The Hudson Institute has estimated there will be a shortfall of approximately 450,000 entry-level commercial vehicle drivers per year through the end of the century.[18/] The effect of the "driver shortage" on the day-to-day operations of motor carriers is perhaps best summed up by the Executive Director of the Interstate Truckload Carriers Conference ("ICC"), which represents a number of the larger truckload motor carriers. ITCC members operate an estimated 100,000 trucks. He states:

> It's safe to say that at any given time, some 5 percent of my members' equipment is idle because of the driver shortage. Some weeks it probably goes as high as 10 percent.[19/]

A survey conducted for the ATA Foundation also confirms this problem, stating that truckload motor carriers: "[r]eported idle equipment, loads left on the dock, and an inability to grow as fast as desired because of the driver shortage."[20/] Under these conditions, a motor carrier whose prime responsibility and motive for existence is moving freight for profit is simply not going to provide training to entry-level drivers by using equipment and personnel that could otherwise be generating revenue miles.

17/ In view of the current levels of unemployment, and number of dislocated workers in the United States, OOIDA is unwilling to concede the existence of an actual "driver shortage". The Association does concede that there is an inadequate number of people willing to enter the profession given the current working conditions and prevailing wage rates.

18/ Hudson Institute, "The Shortage of Drivers and Mechanics: What Can be Done?," ATA Foundation, HI-4044-RR (October 1988), p. 4.

19/ J. Terry Turner, Executive Director, Interstate Truckload Carriers Conference, Speech (November 1987).

20/ "The Shortage of Drivers and Mechanics: What Can be Done?," at p. 6.

For purposes of its motor carrier safety rating program, the U.S. Department of Transportation recognizes the existence of more than 200,000 "motor carriers". This number ranges from very large national carriers to single truck operators. There is not even an adequate way to survey this large number of motor carriers to determine whether they are engaged in training programs at all, let alone to ensure that the training is adequate. The Office of Technology Assessment has noted that training programs operated by motor carriers are "relatively few in number".[21/] The majority of the carrier-based training programs are more in the nature of new employee orientation rather than over-the-road driver training. This is consistent with the economic factors previously noted, as well as the fact that motor carriers are not in the business of training drivers.

In today's environment, motor carriers are eager to recruit drivers to drive trucks. If they must train them in order to put them on the road they may do so; however, in most cases the training given by the motor carrier will most often be as brief as possible, and include only the bare essentials necessary to put the driver on the road so that he or she can generate revenue. Further, the large driver turnover experienced by carriers brings into question whether the training that they are capable of giving would be adequate. It is doubtful that, in a "driver shortage," motor carriers would utilize their most experienced drivers (who would be those most capable of training new drivers) to train entry-level employees rather than to operate trucks to generate revenue. Perhaps most importantly, those motor carriers that choose not to voluntarily train entry-level drivers will enjoy a short run (and if they are lucky, long run) economic advantage over those motor carriers that do

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21/ "Gearing Up for Safety", at p. 146.

invest resources in adequate training.[22/] Further, the high turnover rates in the trucking industry provide a disincentive for carriers to properly train.

A document recently obtained by OOIDA illustrates the potential lack of proper training in one of the most vivid examples imaginable. Exhibit 1 is an internal memorandum from the North American Van Lines ("NAVL"), one of the largest motor carriers in the country. It is a schedule for new entry drivers recruited from Grenada. According to the memo, the recruits arrived in the United States less than two months ago, without a regular drivers license. They are training and tested for a regular license within five days of arrival and, assuming that they passed their final examination, they have been driving 80,000 pound trucks in the United States for more than a month now.

Perhaps more importantly, following receipt of the regular drivers license, they are given a cram course on the skills and knowledge portion of the Commercial Drivers License that lasts a total of only 16 days! It is also the Association's understanding that NAVL is an authorized third party tester in the State of Indiana and, therefore, the Grenadan students that are recruited by NAVL and trained by NAVL are tested by NAVL "vehicular staff" as well!

Following this training and testing, and only 24 days after beginning the process, a driver receives "trailer delivery/dispatch," and presumably is fully licensed to drive anywhere in the United States. This is particularly shocking when one considers a student that has lived all of his or her life in the island culture of Grenada suddenly confronted with the

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22/ While the previously cited experience of UPS would contradict this, that carrier is dominant in a very profitable segment of the overall industry and is thus atypical.

freeway system of Chicago, New York, Los Angeles, or any other American city, or the winder driving conditions that frequently occur in the Spring in the Rocky Mountains!

II. GREATER UNIFORMITY IN ENFORCEMENT WILL PROMOTE SAFETY

Despite the fact that they operate in interstate commerce, owner-operators are faced with a dizzying array of differing and often conflicting state regulations. To register a single truck to operate in the lower 48 states generally requires the same amount of paperwork as to register a fleet of more than 10,000 trucks owned by a large company. The Association completed an entire set of papers necessary to register and license a truck to operate in 48 states as an exhibit for previous Congressional testimony. The stack of papers was more than 2 feet thick! This is particularly burdensome for small business truckers who lack the office staff and the fixed base to be able to comply with such requirements. While some of these issues are currently being addressed as a result of recent legislation, many are not. The issue of uniformity has been a discussion item at the federal level for at least 15 years, with the federal government preferring to move towards voluntary uniformity without the need to use federal preemption. While there have been a few limited successes, this effort has largely failed.

A chronic and growing concern for small business truckers where the lack of uniformity presents a major problem. Following partial deregulation of the trucking industry in 1980, the Congress created a federal grant program known as the Motor Carrier Safety Assistance Program ("MCSAP") to encourage the states to develop their capacity to perform commercial vehicle inspections. The program has grown dramatically with federal grants for the current fiscal year totalling approximately $65 million. As a result, there were more than 1.8 million commercial vehicle inspections performed by the various states last year.

The emphasis on safety inspections is taking a toll in lost productivity. A trucker recently reported that in a trip from San Diego, California to Baltimore, Maryland he underwent three full truck inspections and crossed twenty-two scales. At ten minutes per scale and 45 minutes per inspection, these stops added a full half day to the trip.

Unfortunately, the rise in truck inspections coincided with the shift in raising new taxes away from the federal government and back to the states. Faced with in-state citizens that did not wish to pay increased taxes, and a constitutional prohibition against directly taxing interstate commerce, many states have found that enforcement of commercial vehicle safety regulations is a lucrative source of income. Further local jurisdictions are trying to get their share. Examples of this are even finding their way into the media.

When the truck weigh station at Odessa, Missouri was closed for four days a few years ago, the chairman of the county school board criticized the state authorities because of the loss of revenue from fines that go to the school system. In Tennessee, the Public Service Commission decided to establish an additional truck weigh scale. A press report chronicled an intense fight between two counties as to the location of the scale based on the revenues and court costs that it would generate for the favored county. A very recent report indicated that the mayor of the town of Bedford, Pennsylvania, while lamenting his city's budget crisis, stated that truck safety enforcement would be a lucrative source of new revenue (when the weather warms up).

In addition to zealous enforcement, some states raised the level of fines for truck safety infractions to an almost confiscatory level. For example, the state of Maryland has enacted a state law which requires a fine of $1,005 for an infraction found in the "Driver's Daily Log." This fine is merely for a paperwork violation. Fines of this level raise justifiable

questions among truckers or to whether commercial vehicle safety enforcement is directed toward public safety or revenue generation.

In order to participate in the Motor Carrier Safety Assistant Program ("MCSAP"), states must submit to the Federal Highway Administration a State Enforcement Plan stating how they intend to conduct enforcement activities. As part of that plan, the FHWA encourages the states to move toward a model fine schedule adopted by a voluntary organization of state governmental entities that conduct commercial vehicle safety inspections, the Commercial Vehicle Safety Alliance. While the voluntary fine schedule has been adopted by some states, the experience with many others is just the opposite -- the level of fines and the number of fines imposed continue to escalate.

OOIDA believes that the Congress and the Federal Highway Administration must act to set a ceiling on the level of fines that can be charged by individual states for violations of what are, in effect, federal regulations. The Association believes that if the federal government can require the states to move toward a voluntary ceiling on fines, it certainly has the authority to require them as a condition of receipt of the federal grant monies under the MCSAP. Further, removing the appearance of a disguised revenue device will increase respect for, and compliance with, commercial vehicle safety regulations.

III. TRUCK LENGTH AND WEIGHTS NEED TO BE ADDRESSED TO ENHANCE SAFETY

Current statutes and regulations establishing minimum lengths and maximum weights for trucks need to be revisited to address safety factors. With the advent of the National Highway System ("NHS"), truck length and weight will become more important because now trucks will likely have greater access to additional roads and highways to be included in the

NHS. Not all of these additions are designed to handle the length and weight demands of trucks.

Attention should therefore be given to freezing the current maximum truck length. OOIDA, therefore proposes a freeze on permissible truck lengths pending further study of the safe truck lengths in the NHS. As regards weight, OOIDA fully supports legislation which would freeze the current weight limits for the entire NHS. Further, the Congress must put an end to the ability of states to declare so-called "grandfathered" exceptions to weight limits. Finally, there should be no exceptions in the case of loads that are divisible.

Thank you for the opportunity to share the views of the Owner-Operator Independent Drivers Assn., Inc.

EXHIBIT 1

MEMO

TO: DISTRIBUTION

FROM: JANICE NAWROCKI DATE: 4/21/94

SUB: WELCOME TO THE USA AND NAVL FOR THE FIRST GROUP FROM GRENADA

WHERE: NAVL HEADQUARTERS LAWN

WHEN: THURSDAY, APRIL 28, 1994
5:00 PM TO 6:30 PM

MENU: PORK BARBECUE SANDWICHES
VARIETY OF SALADS
CHIPS AND THINGS
SOFT DRINKS

PLEASE JOIN ME TO GIVE THESE INDIVIDUALS AN NAVL WELCOME.....

IN ORDER TO PLAN FOOD PROPERLY PLEASE RSVP TONYA AT EXT. 1515 BY TUESDAY 4/26/94 BY 5:00 P.M.

THANK YOU.....

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DRIVER QUALIFICATION STAFF

GRENADA SCHEDULE

DAY/DATE/TIME	SUBJECT	PERSON
THURSDAY 4/21 8:30	DRUG TEST PARTIALS ADA	ROCKY AND DEB B.
	UNIFORM ORDERS	ROCKY/WINSTON
	LUNCH	
2:00	SS OFFICE AUBURN	ROCKY/WINSTON/HERB
FRIDAY 4/22	LOGS,SAFETY,PERMITS	DEAN ARRANGING
CLASSROOM 8 SATURDAY 4/23	PROCEDURES	DEAN
	LUNCH	
	DRIVING PRACTICE SAFETRACK	ROCKY/WINSTON JANICE
CLASSROOM 8 SUNDAY 4/24	INVENTORY	~~DEAN~~ DAVE
MONDAY 4/25	INPROCESSING	FLT. DEV. STAFF DAVE
	LUNCH	
	CDL CLASS	FLT DEV. STAFF DAVE
TUESDAY 4/26	WRITTEN AND ROADTEST REG LIC.	BMV VAN AT ROB, WINSTON WEST ANNEX
WEDNESDAY 4/27	CDL WRITTEN TEST	BMV VAN AT DAVE, WINSTON WEST ANNEX
THURSDAY 4/28	CARGO HANDLING PADDING/WRAPPING	FLEET DEV. STAFF ALAN TERRY
FRIDAY 4/29	CARGO HANDLING	FLEET DEV. STAFF ALAN TERRY

SATURDAY 4/30	PAPERWORK	FLEET DEV. STAFF
SUNDAY 5/1	TARIFF/QUALITY	FLEET DEV. STAFF
MONDAY/SUNDAY 5/2 -5/8	SAFETRACK	VEHICULAR STAFF
MONDAY/FRIDAY 5/9-5/13	ROADTRIP	VEHICULAR STAFF
SATURDAY 5/12	CDL BACKING TEST	VEHICULAR STAFF
SUNDAY 5/13	RETEST CDL SKILLS IF NEEDED	VEHICULAR STAFF
MONDAY 5/14	OUTPROCESSING	FLT. DEV STAFF DEB OHNECK
TUESDAY 5/15	TRACTOR DELIVERY DISPATCH	PETE ROBERTS

U.S. Alcohol Testing of America, Inc.

EVIDENTIAL • CLINICAL • SCREENING • CONSUMER

TESTIMONY OF

DR. ROGER TATUM

ON BEHALF OF

U.S. ALCOHOL TESTING OF AMERICA, INC.

BEFORE THE

HOUSE SUBCOMMITTEE ON

SURFACE TRANSPORTATION

JUNE 14, 1994

10410 Trademark Street • Rancho Cucamonga, California 91730 • (800) 75-FINAL • (909) 466-TEST • FAX (909) 466-0082

Thank you Mr. Chairman for allowing me to address the sub-committee hearing.

My name is Dr. Roger Tatum and I am the Director of Chemistry of U.S. Alcohol Testing of America, Inc., a manufacturer of alcohol breath testing equipment. I am a Ph.D. Analytical Chemist and Professor of Chemistry for La Sierra University campus associated with Loma Linda University.

We have been involved with the Department of Transportation's (DOT) National Highway Traffic Safety Administration (NHTSA) for several years in the area of alcohol testing and have testified concerning both the "Proposed" and "Final Rule" in person and in writing. Consequently, we share your concern for safety for our nation's transportation modes.

Congress passed the Omnibus Transportation Employee Testing Act, which was part of the fiscal year 1992 appropriations bill requiring D.O.T. to establish alcohol testing regulations within the transportation industry.

We are very concerned about certain issues in the "final rule" adopted by D.O.T. which may create problems of accuracy and fairness for employees being tested, for the unions representing them, and for their employers who are required to supervise breath alcohol testing. Most

importantly, the rule will have a deleterious effect on transportation safety in this country. Since the majority of those employees affected by this regulation are involved in surface transportation, we believe it is important for this committee to be made aware of these issues.

Although the enabling legislation and the D.O.T. proposed rule have defined alcohol as "Ethyl" or beverage alcohol, the Final Rule arbitrarily changed the historical definition to include "low molecular weight alcohols, including methanol and isopropanol". According to D.O.T., this new definition was adopted in order to "better reflect State Laws and the capabilities of current alcohol breath testing devices and to help promote public safety". Unfortunately, none of these stated reasons is based upon fact.

This seemingly innocuous change in the legal definition of "alcohol" is based upon bad science, will prove to be bad public policy and will bring legal confusion into the courtroom for years as the nation implements this well intentioned and important legislation.

It is a scientific principle that a single measurement cannot accurately quantify more than a single component of a mixture. In order to accurately measure mixtures, such as the "low molecular weight alcohols" newly defined by D.O.T., multiple measurements and calculation must be performed. We

have data (submitted with this document) that proves that each different technology currently approved by D.O.T. for breath alcohol testing yields different quantitative results in the presence of mixtures of "low molecular weight alcohols" such as those defined by D.O.T.

The Department (D.O.T.) has admitted that no scientific studies have ever been performed which support the accuracy of testing mixtures of alcohols other than ethanol. In fact, the Cambridge, MA laboratory tests breath alcohol devices for accuracy and inclusion on its Conforming Products List (CPL) using only ethyl alcohol standards.

Also, no scientific nor any legal body has ever defined the term "low molecular weight alcohols" that D.O.T. has created. In fact, not a single state or the District of Columbia defines "alcohol" as defined by D.O.T. in its final rule.

The lower level detection requirements set forth in the final rule (.02% - .04% breath alcohol) also significantly increases the risk of interfering substances from foods, over-the-counter and prescription medications, industrial and environmental exposure being misinterpreted by breath alcohol test devices as if the were all ethyl alcohol. These other volatile organic compounds, some of which are measured and displayed as if they were ethyl alcohol, can

enter the blood through involuntary inhalation or skin absorption and become additive in the breath.

Breath alcohol instruments--many of which are already included on the D.O.T. "Conforming Products List"--incapable of discriminating between such various volatile organic compounds, including "low molecular weight alcohols", cannot possibly accurately report breath alcohol levels correctly. Such inaccurate results--though reported as seemingly correct--may cause instances of "false positives" in which legally sober transportation workers are incorrectly removed from the workplace at considerable expense and risk of costly subsequent legal action to their employers. Most importantly, inaccurate results will result in "false negatives" permitting transportation employees on the highways when they should have been removed, thus undermining the intent of the final rule.

Such uncertainties caused by arbitrarily changing the time tested legal definition of "alcohol" will certainly open the door for increased legal challenges against those employers honestly using their best efforts to implement the 1991 law.

Indeed a flood of legal challenges, based upon the fact that D.O.T. and NHTSA have approved devices on their CPL that were never tested for accuracy on each of the alcohols which fall under their arbitrary new definition, may prove

troublesome to the entire Transportation Act.
This arbitrary change in the legal definition of "alcohol" could compromise employee rights to fair and accurate alcohol breath testing due to increased possibility of false positive readings, which could cause unfair discipline, loss of employment and compromise of employees' reputations. Unjust discipline and termination will extend beyond individual employees to the union, to employers and to the entire transportation industry. Employers will bear the burden of defending "alcohol" tests which have no true scientific reliability.

It is our recommendation that you review this aspect of the "final rule" and the adverse results it will undoubtedly ultimately produce. After consideration, it is our hope that you will take such appropriate action as is necessary to ensure that the Department of Transportation reverse its final rule to the previously legally accepted definition of alcohol as "ethyl alcohol or beverage alcohol". If we are to avoid the aforementioned legal dilemmas for the transportation industry in this country and fully protect transportation employee rights, the definition of alcohol must be returned to ethyl alcohol only.

Again, thank you Mr. Chairman for allowing us to appear before your committee today. I would be more than happy to

answer any questions or to supply your committee with additional written information in the next few days.

G. Roger Tatum, Ph.D.
Professor of Analytical Chemistry
La Sierra University, Riverside, CA

Dr. Tatum, Ph.D. chemist with over 20 years experience in chemical instrumentation, teaches at La Sierra University (formerly the La Sierra Campus of Loma Linda University) where he has supervised more than 50 student research projects involving analytical chemistry, chemical instrumentation, real-time computer interfacing, and statistical analysis of laboratory data. Research interests include sensor technology, electrochemistry, spectroscopic and chromatographic analytical methods, and chemometric data analysis. Research fellowships have been at the Carnegie Geophysical Laboratory and at the Biochemistry department of Loma Linda University developing computer-interfaced chemical instrumentation.

Consulting in industry has involved Dr. Tatum for several years in human physiological testing, liquid scintillation counting, UV-visible spectrophotometry, coulometric and amperometric electrochemistry, GLC and HPLC analytical methods, analysis of breath alcohol for law enforcement, and drug of abuse detection using flow immunosensors. Current professional consulting positions include Director of Chemistry at U.S. Alcohol Testing of America, Inc. and Laboratory Co-director at Biochemical Toxicology Laboratory.

Breath alcohol analysis technical presentations have been prepared by Dr. Tatum for the U.S. Department of Transportation (DOT), U.S. Department of Energy (DOE), Air Transportation Board (ATB), Airline Pilots Association (APA), National Institute of Standards and Technology (NIST) (formerly the National Bureau of Standards, NBS), and for the Biological Science Curriculum Study (BSCS) project. International work on alcohol breath testing by Tatum includes preparing technical information for the Standards Australia Committee on Blood Alcohol Testing Devices and the Organisation Internationale de Metrologie Legale (OIML).

Scientific professional society memberships include AAAS, ACS, AACC, IACT, and NSTA. Personal hobbies include travel, tennis and distance bicycling.

Statement of

Darryl L. Wyland, Senior Vice-President

Public & Government Relations

American Automobile Association

Prepared for the

Subcommittee on Surface Transportation

of the

House Committee on Public Works and Transportation

Relating to

Oversight on Motor Carrier Safety

June 14, 1994

The American Automobile Association, serving almost 36 million members - 20 percent of the driving public, appreciates this opportunity to comment on motor carrier safety and the need to limit truck sizes and weights on the National Highway System.

Size and Weight Limits

The AAA endorses Congressman Oberstar's legislation, HR 4496, the "Safe Highways and Infrastructure Preservation Act of 1994." Unfortunately, some segments of the trucking and shipping industries always seem to be pushing for bigger trucks. The harsh reality is that while increased truck sizes and weights damage roads and bridges, jeopardize public safety, and concern the motoring public, they enhance company profits of some trucking and shipping concerns, thereby enticing them to push continually for bigger and bigger trucks.

Increases in truck sizes and weights tend to be irrevocable. Once allowed, bigger trucks are almost never banned -- regardless of the damage or safety problems they cause.

AAA is not here to denigrate the trucking industry. Big, heavy combination vehicles are a fact of life on America's roads. They are a necessary fact. The trucking industry employs some 7.8 million Americans and serves every community in the United States. Some two-thirds of all American communities are served by no other mode of

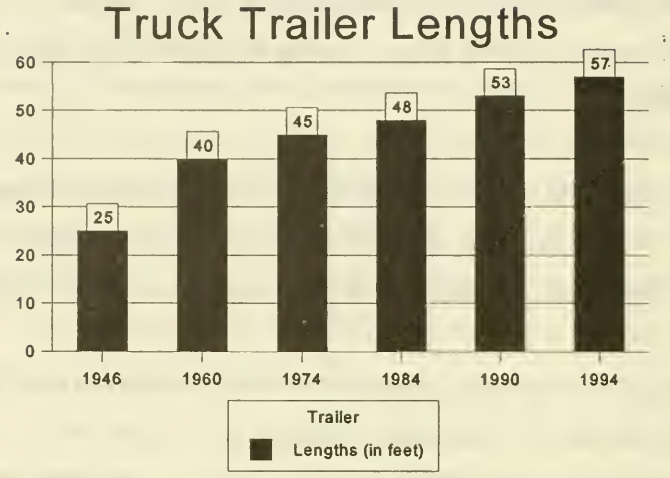
freight transportation. Of the more than 194 million motor vehicles registered for use on America's highways, truck combinations alone represent almost 1.7 million vehicles. Additionally, there are 3.8 million commercial trailers. Approximately 760 billion ton-miles of freight are moved annually by truck - - one-fourth of our total freight movement. Without question, trucking is a significant factor in our national economy.

What concerns AAA and our members are efforts to obtain longer and longer trailers and increases in allowable weights. We believe that it is time to legislate a "cap" on truck trailer lengths and weight and 53 feet represents a reasonable compromise.

The Surface Transportation Assistance Act of 1982 mandated that states could not prohibit the use of 48-foot trailers; however, it did not prohibit the use of longer trailers. Prior to the STAA of 1982, the trucking industry's workhorse was the 45-foot trailer. It did not take the industry long to capitalize on the use of 48-footers and the move was on to get even longer trailers. Currently, 86.8 percent of the trailer fleet exceeds 45 feet. By 1985, 13 states allowed the use of 53-footers. By 1990, only 11 did not allow them! Today, only one state does not allow them. Now, we are witnessing a move to even longer trailers with over a dozen states allowing trailer lengths of 57 feet or longer.

Obviously, the trend toward longer trailers is motivated by economics. The move from 48 feet to 53 feet gave shippers 300 cubic feet of additional space. The 57-foot

trailer offers approximately 8 percent more cubic capacity than 53-foot trailers. But where will it end? Sixty feet? Sixty-five feet?



AAA survey after survey find big combination trucks high on the publics' list of things they hate to face on our roads. Why? Quite simply, the big rigs are intimidating. These survey results are also consistent with a study released in 1990 by the AAA Foundation for Traffic Safety entitled, "Older Drivers' Perceptions of Problems in Freeway Use." That study found that older drivers have particularly acute problems interacting with large trucks. Trucks received the highest overall rating of concern regarding freeway driving among the factors in the study questionnaire, and focus group discussions confirmed the prominence of this concern. Sharing the freeway

with large trucks, particularly under increasing congested conditions, makes the public uncomfortable. Several focus group participants indicated that this was the reason for avoiding freeways, and some changed travel plans to avoid periods of heavier truck traffic.

The U.S. driving population is getting older. Improvements in medicine and health care are prolonging usable years. Information from the Federal Highway Administration discloses that licensed drivers 55-59 increased in number by 26.6 percent between 1970 and 1992. Licensed drivers 60 and over increased by 122.6 percent over the same period, and for the group 70 and over, the growth was a whopping 225.3 percent!

With an increasing number of older Americans living in the suburbs, fewer will be able to give up access to their automobiles. As it is, more than 80 percent of trips made by those 65 and over are in an automobile, and that reliance is growing.

Trucks are over-represented in fatal collisions. Over the past several years, combination trucks have experienced fatal crash involvement rates nearly twice those of passenger cars. In 1992, according to National Safety Council (NSC) data, passenger cars constituted 74.2 percent of the registered vehicles yet were involved in a much smaller percentage of the fatal collisions, (57.9 percent).

Medium/heavy trucks had the opposite experience. They constituted 3.9 percent of

the vehicles registered and were involved in 7.9 percent of the fatal collisions.

Of the total deaths due to crashes involving a large truck and a passenger vehicle in 1992, 98 percent were occupants of the passenger vehicle. The laws of physics are irrevocable. The severity of motor vehicle collisions is a direct result of the energy that is dissipated by the crash. When an 80,000 pound truck crashes with a 2,700 pound automobile, the truck has 30 times more energy and the truck simply overpowers the automobile. It's like hitting an ant with a sledge hammer!

Both AAA and the trucking industry are trying to lessen the safety threat posed by the disparity in vehicle sizes on today's highways. AAA, the American Trucking Associations, and the National Private Truck Council in partnership with FHWA are producing and distributing educational material on how to safely share the roads. We see this campaign as the beginning of a partnership among automobile drivers and commercial vehicle drivers, helping each to understand the needs and limitations of the other. We have also worked with the industry on incident management programs and joined with them this past year to work on the Washington Beltway Area Highway Safety Initiative.

But this does not mean we won't raise our voices to object when the trucking industry attempts to obtain even bigger and heavier trucks.

Over the years the trucking industry has repeatedly contended that the use of longer

trucks would reduce the number of trucks on the roads, thereby reducing energy use, air pollution and highway congestion. This argument was used by the industry back in the 1970's during the energy crisis when trucks were allowed to carry cargo in excess of existing weight limits. The same argument was used during the debate on the 1982 Highway Act, which mandated the 80,000 pound weight limit; the use of twin trailers; and the use of 48-foot semi-trailers; and, was used most recently in the industry's push for expanded use of LCVs.

But registration figures for combination trucks (as noted in FHWA's Highway Statistics), demonstrate that larger trucks did not lead to reduced combination truck registrations. Since 1981, truck registrations have increased 31.2 percent. More importantly, the growth in highway freight movement since 1981 has been paralleled by increased truck travel, not increased tonnage per vehicle. Between 1981 and 1992, the VMT has increased 43.2 percent.

Allowing bigger trucks on our highways would provide economic benefits to both shippers and truckers, but only at high costs to motorists. Motorists and other highway users would bear increased costs of infrastructure repair and maintenance, and experience additional collisions resulting from reduced safety margins.

Is this fair? AAA does not believe it is. Limits on truck sizes and weights are needed and they are needed now.

Covered Truck Loads

AAA also endorses H.R. 2967, a bill that establishes national standards for the covering and securing of loads on commercial motor vehicles. Even though many trucking companies require their loads to be secured and/or covered to protect their freight and the motoring public, too many motorists still face cracked or broken windshields and damaged automobiles from flying debris. Roadsides are still littered from unnecessary truck spillage.

Each state is responsible for the safety of their highways and over the years they have attempted to resolve truck spillage in different ways. Some require that truck loads be covered, some require covering in limited instances, others restrict spillage and require the securing of loads, while yet others restrict spillage only. Enforcement, to say the least, can be spotty, especially in those states that require police officers to witness the spillage.

Several years ago, AAA successfully advocated that a load cover requirement similar to the one that would be required by H.R. 2967 be adopted in the Uniform Vehicle Code. The Code is a specimen set of motor vehicle laws designed and advanced as a comprehensive guide or standard for state motor vehicle and traffic laws.

Unfortunately, experience with that provision demonstrates that it could take decades before all states adopt language to require the covering of loads to reduce truck load spillage. Therefore, we applaud the rulemaking requirement in H.R. 2967 as it will

encourage states to adopt meaningful and effective load spillage prohibitions.

H.R. 2967 focuses national attention on the issue while offering a mechanism for persuading states to attack the problem. It deserves enactment.

In closing, the AAA believes that we need to set and hold commercial motor vehicle standards for the National Highway System. Our investment in the NHS represents a strategic investment in America's future. To protect that investment we must allow for the planning, implementation, and operation of an adequate infrastructure to guarantee the safe movement of people and goods rather than permitting the continual ratchetting upward up truck size and weight limits as we have seen over the years.

TESTIMONY OF THE

AMERICAN PUBLIC TRANSIT ASSOCIATION

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION

OF THE

HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

****

OVERSIGHT HEARING ON MOTOR CARRIER SAFETY

June 14, 1994

SUBMITTED BY

American Public Transit Association
1201 New York Avenue, N. W.
Washington, DC 20005
(202) 898-4000

APTA represents over 1100 members, including all major commuter rail operations, motor bus and rapid transit systems, and organizations responsible for planning, designing, constructing, financing and operating transit systems, APTA members include business organizations which supply products and services to the transit industry, academic institutions, and public interest groups.

The American Public Transit Association (APTA) appreciates the opportunity to provide testimony concerning the maximum axle weight limits applicable to vehicles operated by providers of public transportation on the Interstate Highway System.

APTA's overall position is that a permanent exemption should be adopted for public transit buses in respect to the Federal Interstate System single axle weight requirements. Public transit buses spend a minimum amount of their operational time on Interstate highways. Public transit buses have been faced with increased design weight because of Federal statutory and regulatory requirements. There is an ongoing design effort in the transit industry to reduce weight in order to increase fuel efficiency and decrease operational costs.

Public transit operators should not be required to carry fewer passengers in order to meet a Federal requirement that is more appropriate for vehicles that spend the vast majority of their time on the Interstate system. It is just not good public policy to penalize providers of a public service. Transit systems cannot be put in a position of carrying seated loads only--again, this is unacceptable public policy.

Vehicle weights increased significantly in the 1970s in order to design vehicles that met the federally mandated Advanced Design Bus Specification. In addition, regulations implementing the Americans with Disabilities Act and the Clean Air Act have contributed heavily to vehicle weight increases. Public transit is working to improve air quality by using alternative fuels, and clean diesel technology, but the use of such alternatives at this time inherently increases the weight of the bus.

Manufacturers have experienced difficulty in keeping up with new engine designs, exhaust after-treatment equipment, and customer required technology changes to the point where they believe that it has been virtually impossible to embark on weight reduction programs for the base vehicle, while continuing to meet the 12-year life requirements in corrosive environments and often operating on degraded street surfaces.

Efforts have been made to reduce weight, but, as previously mentioned, additional regulatory requirements have imposed extra weight. In addition, manufacturers are experiencing increased weight due to new drivers' compartment designed to meet technological advances in this area.

The enforcement of the current limit on public transit bus manufacturers would be catastrophic. The existing technology encompassing all existing Federal mandates just does not exist.

It is also necessary to recognize that the weight of buses can be dependent on customer selection of the type of engine, transmission, tires, HVAC, radios, instruments, farebox, heaters, seats, wheelchair lift type and destination signs included in or on the vehicle.

Public transit buses are operated on the Interstate System in all major markets. The amount of service on the Interstate varies from jurisdiction to jurisdiction based on service area, route structure and other operating considerations. In many jurisdictions, the buses operated on the Interstate System are express buses and do not, in fact, have standees.

As mentioned above, the inclusion of additional mandatory equipment to comply with various Federal statutes has significantly added to the weight and the costs of the standard public transit bus.

It is estimated that a front door lift (complying with the Americans with Disabilities Act (ADA) requirements), complete with motors and controls, weighs 1,200 pounds and adds approximately $20,000 to the cost of a transit bus. Ninety percent of the weight of the front door lift is carried on the front axle. Approximately 300 pounds additional weight is represented by the inclusion of wheelchair securement systems, flip-seat assemblies, and seat-belt/tie-downs and storage compartment for such equipment. It is also expected that other ADA requirements such as larger diameter handrails, larger destination signs, and public address and annunciator systems will add several hundred pounds.

To comply with Clean Air Act requirements, it is estimated that a particulate trap weighs 200-300 pounds and is carried by the rear axle of the bus. The cost is approximately $10,000 per bus for the trap and the electronic controls. Alternative fuel vehicles are still in the developmental stage, but it is estimated that an additional 3,000 pounds in weight could be added, for example, if compressed natural gas were used as the fuel (including tanks, piping, etc.).

Designing public transit buses to meet the current 20,000 pound single axle weight limit would reduce the transit riding capacity of vehicles. Additional vehicles would then be required to handle such passenger loads. In theory this could increase wear and tear on highways because of the increase in the number of public transit buses using the highways.

The additional buses would not be necessary for increased ridership, but because of design limitations to meet the Federal requirements. Operating and replacement costs of existing vehicles would correspondingly increase in order to meet just current capacity, not recognizing expected demands for increased ridership. The overall costs of new vehicles would be substantially more than current vehicles, although it is too early to predict how expensive. There is currently a transition in technology. Light-weight vehicles are not yet achievable or available. Many manufacturers have taken the position that "there will be an evolution in technology and not a revolution."

It would not be feasible to design two types of public transit buses, one to meet the axle weight limit on the Interstate System, and the other designed for use off of that system. The principle reason that it would not be feasible is the minimum amount of time that public transit buses are operated exclusively on the Interstate System. Because of the complexity of the service profile of major transit systems, segregation of vehicle types would be

impractical, increase costs, and adversely impact operations.

All practical efforts have been made to reduce weight. All efforts, to date, still have not brought current public transit buses to the Interstate System single axle limit. The cost of building a light-weight bus that meets axle weight limits, and that includes necessary equipment and equipment mandated by federal laws or regulation, would be impractical in the current budget environment. As it is, we do not have sufficient resources, from all sources, to meet the capital needs of the transit industry.

It is estimated that vehicle design, prototype vehicle development, normal testing, Altoona facility testing, modifications to existing plants or the building of new plants so current business could go on unaffected in the interim, would take between five to eight years at an investment cost of approximately 60 to 80 million dollars in order to bring a bus to the market place that would meet current Federal and State axle weight laws. A Federal guarantee of volume business that would allow for reasonable profit margins would have to be in some way put in place to make such major investments feasible by the private manufacturing sector.

The Advance Technology Transit Bus project currently being sponsored by the Federal Transit Administration is a five-year, $30 million program which will produce six prototype buses for field testing prior to full scale production.

The estimated production cost of a public transit bus that would meet the Interstate single axle weight limit, as well as all other applicable Federal, State, and local requirements, would be substantially in excess of today's costs.

While we anticipate an eventual decline in the weight of public transit vehicles, at a reasonable cost, we believe that national goals and the public interest are best served by an exemption for public transit vehicles from current axle weight limitations. We appreciate your consideration of our views on this subject and we would be happy to respond to any additional questions you might have on the subject.

STATEMENT OF ANDREW H. CARD, JR.
PRESIDENT AND CHIEF EXECUTIVE OFFICER

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE

ON

PUBLIC WORKS AND TRANSPORTATION

SUBCOMMITTEE

ON

SURFACE TRANSPORTATION

H.R. 4496

SAFE HIGHWAYS AND INFRASTRUCTURE PRESERVATION ACT OF 1994

COMMENTS

SUBMITTED ON BEHALF

OF

AMERICAN AUTOMOBILE MANUFACTURERS ASSOCIATION

JUNE 14, 1994

The American Automobile Manufacturers Association (AAMA) respectfully submits these comments in opposition to provisions in H.R. 4496, **Safe Highways and Infrastructure Preservation Act of 1994**, which would freeze and/or rollback truck size and weight limits on the Interstate Highway System and other roads designated as part of the National Highway System. AAMA and its members support the safe, competitive, efficient and economical flow of commerce over the National Highway System. However, the provisions of this legislation related to truck size and weight will eliminate substantial improvements made in the safe, competitive, efficient and economical flow of commerce.

IDENTITY

OF

AMERICAN AUTOMOBILE MANUFACTURERS ASSOCIATION

AAMA is a not-for-profit trade association whose members are Chrysler Corporation, Ford Motor Company and General Motors Corporation. Members of the Association ship, in interstate and intrastate commerce, component parts used in the manufacture, maintenance and repair of vehicles as well as finished vehicles which are subject to federal and state vehicle weight and length laws.

THE ISSUE

Specific provisions of H.R. 4496, **Safe Highways and Infrastructure Preservation Act of 1994**, would prohibit the operation of trailers, semi-trailers, containers and other cargo units longer than 53 feet on the Interstate Highway System or other roads designated as part of the National Highway System. Other provisions would eliminate the ability of states to issue over-weight and over-dimensional permits.

AAMA POSITION

Safe, efficient and economical flow of commerce over the nationwide transportation system is of concern to AAMA and its members. As shippers, AAMA members are customers of the for-hire motor carrier industry and are affected by federal and state regulations intended to ensure a safe, efficient and economical nationwide transportation system. In addition to using the services of for-hire motor carriers, AAMA members operate private truck fleets which are subject to applicable safety, weight and length regulations.

All U. S. business concerns face constant challenges of increased competition from domestic and international sources. The 4.5 percent increase in productivity in the motor carrier industry during the last decade has helped in meeting these challenges. This increased productivity in the motor carrier industry resulted from, but is not limited to, longer, more efficient equipment; computers, including on-board computers and better management. However, as weight and length decrease, so does productivity.

If approved, the proposed legislation would overturn current laws in 27 states on weight limits and in 28 states on length limits. Commodities moving in the longer 53 and 57 foot trailers are often light and bulky and will often fill the cube of shorter trailers before reaching the applicable weight limit. Further, AAMA and its members oppose the elimination of the long-standing ability of states to issue special over-weight and over-dimensional permits on non-divisible loads which can only be moved by highway transportation. In addition to permits on non-divisible loads, AAMA and its members support permits for divisible loads. For example, in the shipment of commodities such as coiled steel, the placement of one coil on a trailer could result in an uncompetitive, inefficient and uneconomical load requiring two vehicles. Whereas, the addition of a second coil might result in 2,000 to 3,000 pounds over the legal weight limit, but could result

in a more competitive, efficient and economical move with a special permit and one less vehicle on the highway system.

A Transportation Research Board (TRB) study indicates that reducing the length of trucks would result in a negative impact on safety as more trucks would be required to transport the same volume of commerce. Further, the TRB study estimates a rollback in the weight would increase transportation cost by $7.76 billion annually which would result in decreased competitiveness and possible job loss.

CONCLUSION

A freeze/rollback of vehicle size and weight will move toward uncompetitive, inefficient and uneconomical conditions in the motor carrier industry. As vehicle weight and length decrease, so does productivity. Also, a freeze/rollback of vehicle size and weight could result in a negative impact on highway safety as the number of vehicles on the highway will have to be increased to transport the same volume of commerce. AAMA believes safety is achieved through strict enforcement of safety laws and regulations and not from a freeze/rollback of vehicle size and weight. Further, an increase in the number of vehicles on the

National Highway System will only exacerbate a growing problem for the motor carrier industry, that is, a national shortage of safe, qualified drivers.

Comments of Ron Carey, General President
International Brotherhood of Teamsters

Before the Surface Transportation Subcommittee
of the Committee on Public Works and Transportation

U.S. House of Representatives

Motor Carrier Safety Issues

June 30, 1994

Mr. Chairman, members of the subcommittee, my name is Ron Carey. I am General President of the International Brotherhood of Teamsters. Our 1.4 million member union represents hundreds of thousands of workers in every sector of the trucking industry.

Let me begin by saying that I commend you, Chairman Rahall, and your colleagues on this Subcommittee, for holding this hearing. It goes without saying that you have been steadfast in your commitment to periodically review motor carrier safety policies with any eye toward improving the laws and regulations that govern the many aspects of safety in this industry which have a direct impact on workers as well as the general public.

For the Teamsters, curtailing injury and death in the motor carrier industry has always been a mission we take seriously. The safety of the motoring public and our drivers whose workplace is the highways, has been a major priority.

Too often we witness an accident, often involving the release of hazardous materials, that could have been avoided. Whether such an accident occurs due to shabby maintenance or inspection, aging

equipment, or fatigue caused by hours of service violations, it is clear that safety in this industry continues to be a major problem in need of constant re-examination.

But for the purposes of my statement today, I will address motor carrier safety with particular emphasis on the concerns surrounding the phase-in of the North American Free Trade Agreement. IBT believes that NAFTA not only will wreak havoc for trucking employees in terms of lost jobs, it will result in the degradation of safety standards on our highways.

But now that NAFTA is a reality, and our government is moving swiftly to implement its land transport provisions, it is incumbent upon this Subcommittee to ensure that this ill advised trade scheme does not result in making the motor carrier industry more dangerous for workers and other users of our highways. As this union has previously stated, Congress must not allow the liberalization of cross-border trade services between the U.S. and Mexico to be the vehicle for the pursuit of the lowest common denominator in terms of safety standards and regulations.

While IBT believes Transportation Secretary Federico Peña is committed to protecting the integrity of the motor carrier industry, we still hold the view that certain safety compromises are inevitable because that is the very nature of implementing bilateral and multi-lateral trade agreements.

You can be assured that the process of harmonizing standards is one to which we are looking to safeguard the safety interests of our members. IBT has many concerns in this area, and I will

highlight those issues that we believe deserve the attention of this Subcommittee.

New Freedoms Under NAFTA

When NAFTA enters into force in December of next year, Mexican motor carrier companies will have the right to deliver international freight to the from U.S. border states. That same right is reciprocated to U.S. carriers. Gradually, the freedoms are liberalized until the seventh year, in which each country will have access to each other's entire marketplace for the delivery of international freight.

Once NAFTA enters into full force, Mexican truck drivers will be free to traverse our country in a new international traffic zone that has no boundary. And while domestic point-to-point service -- or "cabotage" -- is still reserved exclusively to U.S. drivers, it will be virtually impossible to enforce this prohibition since NAFTA relies almost entirely on already overburdened local and state enforcement authorities to undertake this enormous task.

While NAFTA's signing is predicated upon the notion that no foreign motor carrier will travel our highways without meeting all our standards of operation and safety, there is nothing any interested party (except Congress) can do to ensure this important objective is met as the so-called harmonization process advances.

Commercial Drivers License Program

The first issue I would like to address is driver qualification and specifically, the Commercial Drivers License (CDL) program in the U.S. and Mexico. As you are well aware, we

filed suit against the Department of Transportation seeking to overturn that agency's signing on November 21, 1991 of a Memorandum of Understanding (MOU) with Mexico to essentially accept each country's CDL. Specifically, we took great exception to DOT's Final Rule on July 16, 1992, which implemented the MOU without a hearing or allowing for public comment.

That aside, we have argued, and continue to argue, that Mexico's CDL -- "Mexican Licensia Federale" -- is not comparable to the CDL required in this country in several respects including requirements governing driver age, language, safety and information exchange. Since NAFTA will be in force in some 18 months, we believe this issue must be addressed by Congress or by the DOT in its continuing negotiations with the Mexican government.

When Congress passed the CDL requirement in 1986, by virtue of the enactment of the Commercial Motor Vehicle Safety Act (CMVSA), the intent of the law was, as stated in the Committee's Report, *"...to help prevent truck and bus accidents and injuries by establishing minimum standards for the testing and licensing of commercial drivers to have a single classified driver's license and driving record."*

The law clearly states that no person may operate a commercial motor vehicle unless he or she has passed a written and driving test to operate and which meets the minimum federal standards established by the Secretary of Transportation. Further, states may issue CDL's to Mexican drivers only if the licenses meet the minimum standards established by the enactment of CMVSA.

Ironically, the U.S.-Mexico MOU, which preceded completion of a negotiated NAFTA, grants to Mexico greater leeway than CMVSA grants to American states. It is our view that while DOT believes Mexico's CDL meets all statutory requirements under CMVSA, there remain serious differences between Mexico's license and our CDL.

Age. It is well known that younger drivers pose more risk than more experienced drivers. In the U.S. drivers must be at least 21 years old to hold a CDL. In Mexico, the minimum age requirement is 18. While we are aware that Mexico must in theory comply with all our standards we continue to be concerned that either the U.S. will seek to amend the law, so as not to violate the "spirit of NAFTA, or that the non-existent enforcement mechanism in NAFTA will manifest itself here at the expense of highway safety.

Language. U.S. drivers can hold a CDL only if they are *"able to read and speak the english language sufficiently to converse with the general public, to understand highway traffic signs and signals in the english language, to respond to official inquiries, and to make entries on reports and records."* Again, while our government states that nothing in NAFTA will compromise existing statutory or regulatory mandates, the CDL Final Rule did not contain any english requirement. Hence, we are forced to rely on the harmonization process to correct this glaring difference.

Any Teamster member, regardless of his or her first language, must meet this language requirement. We submit that it will be virtually impossible to ensure Mexican drivers meet this same

requirement, regardless of what the two countries might agree upon on paper at the bargaining table. This unequal treatment is neither fair, nor safe.

Safety and Hazardous Materials. U.S. drivers must posses specialized knowledge and skill to operate specific equipment of varying sizes and weight, including that used to transport placarded hazardous materials. A U.S. CDL is issued based upon a driver's qualification to operate a certain vehicle group. There is no such requirement on the Mexican license.

To date the only answers we have received thus far from DOT is that the harmonization of rules will resolve any outstanding issues. We do know that Mexico is not nearly as evolved as the U.S. in governing hazardous materials transportation. To allow Mexican drivers to enter onto our highways in December of next year without first ensuring that proper safeguards are in place relative to driver qualification and licensing would subject our transportation system (and its users) to hazards it is ill equipped to protect against. Further, the differences in the two CDLs present serious problems with respect to enforcement by U.S., state and local police authorities.

Information exchange. In order to have effective enforcement of motor carrier safety standards it is important to have a national computerized system for information exchange and data gathering. In fact, under existing law no state is permitted to issue CDLs without first being connected to the computer network. Under the regime negotiated in the MOU the U.S. and Mexico will

only exchange CDL information on a limited basis. But no definitive agreement has been reached to ensure compliance by Mexico of our information gathering mandates.

It is significant to note that U.S. trucking industry representatives have complained that not all states are transmitting data concerning the licensed drivers on our highways. Without proper disclosure of information, they argue, it is impossible to meet the safety objectives inherent to Congress' enactment of the CMVSA in 1986. Now enter NAFTA, under which we open the floodgates to foreign motor carriers and drivers without any reasonable expectation that adequate information will be available on the existing computerized data network.

The negotiators of NAFTA gave strong assurances that no safety or operating standards would be compromised in the harmonization of rules. In this instance, the U.S. *is* compromising existing regulatory directives governing the exchange of vitally important safety information. It is IBT's position that the U.S. should have access to the same type of information about Mexican motor carriers and drivers as it does in the states. To accept anything less would amount to a double standard that would expose our highways to serious safety hazards.

Enforcing Cabotage Prohibitions

Throughout the debate over NAFTA, IBT and all of transportation labor argued that there is no effective mechanism contained in the agreement providing for the proper enforcement of rules and regulations. Throughout our consultations with U.S.

negotiators we were assured that while any foreign transportation carrier operating in the U.S. would be required to meet all U.S. regulations, there were no like assurances in the area of enforcement.

Among the many issues related to enforcement is the right of cabotage, a right reserved to U.S. carriers and drivers. Clearly, if there is no enforcement mechanism to protect against such illegal activities by foreign carriers the hard working members of our union face compromised safety standards as well as the potential loss of their jobs.

Repeatedly, DOT representatives have told us that in the formulation of the NAFTA land transportation services chapter the parties always envisioned a large (but, of course, unfunded) role for state and local enforcement authorities. This issue continues to elude resolution as the negotiators move forward in implementing the agreement. To say, on one hand, that foreign carriers must operate in the U.S. in full compliance with our regulations while, on the other hand, not providing for an enforcement mechanism not only is disingenuous, it raises serious safety implications for the users of our highway system.

We would urge this Subcommittee to insist at the highest level of government that the U.S. find ways to enforce the existing prohibition against cabotage. To blindly open up our borders without having in place a well conceived (and funded) system of enforcement would be bad public policy.

Hours of Service

Hours of service rules are of critical importance to our members as well as other advocates of highway safety. Deregulation, which unwisely lifted entry restrictions without proper safeguards, already has created a problem of non-enforcement of hours of service regulations.

It is not uncommon for U.S. truck drivers, particularly employees of small companies or independent owner-operators, to keep their equipment on the road for too many consecutive hours. Their reason is simple: the deregulated marketplace has inspired a destructive competitive environment that continues to force smaller operators to often violate hours of service rules merely to survive.

With the new freedoms afforded Mexican carriers under NAFTA, we now face the same problem of enforcing hours of service regulations -- this time, however, among the Mexican drivers that enter onto our highways. Based on practical experience, IBT already knows that gross violations go unchecked on our highways among domestic operators. To suggest that Mexican carriers will abide by U.S. hours of service rules, or that our existing enforcement regime is sufficient to ensure compliance, is entirely removed from reality.

We urge the Subcommittee to provide proper oversight of this issue and we hope you will take aggressive action in the event our concerns become a reality.

Conclusion

The IBT has long been a leader in motor carrier safety. Our

union is committed to ridding our highways of avoidable safety hazards in what has always been a dangerous workplace.

Our objections to NAFTA were, and continue to be, founded on the idea that "freer" trade must not become a euphemism for gutting the operating environment that Congress has long mandated in the motor carrier industry. We continue to hear that the "harmonization" process will not lead to an erosion of U.S. safety regulations.

To date, however, we see evidence that, not unlike other trade agreements, the U.S. has already compromised certain standards that Congress has long supported. We urge the Subcommittee to ensure that highway and motor carrier safety objectives are not jeopardized in the pursuit of NAFTA's alleged benefits.

I thank the Subcommittee for providing the Teamsters an opportunity to present our views on motor carrier safety.

COMMERCIAL VEHICLE SAFETY ALLIANCE

An Association of State, Provincial and Federal Officials
Responsible for the Administration and Enforcement of Motor
Carrier Safety Laws in the United States, Canada and Mexico.

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STATEMENT BEFORE THE HOUSE SURFACE
TRANSPORTATION SUBCOMMITTEE, U.S. HOUSE
OF REPRESENTATIVES

MOTOR CARRIER SAFETY OVERSIGHT HEARINGS
JUNE 14, 1994

Commercial Vehicle Safety Alliance
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Russ Fiste
Executive Director

1.

Mr. Chairman, Members of the Subcommittee, I am Russ Fiste, Executive Director of the Commercial Vehicle Safety Alliance and I welcome the opportunity to present our views on the Intelligent Vehicle Highway Systems Commercial Vehicle Operations program that is now beginning to take shape.

CVSA is an association of state, provincial, and federal officials responsible for the administration and enforcement of motor carrier safety laws in the U.S., Canada, and Mexico and includes over 200 industry members who are committed to helping the Alliance achieve its goals. We are a not-for-profit organization, established to promote uniformity in motor carrier safety inspection and enforcement programs.

The IVHS-CVO program, in order to be successful in its ultimate deployment as a national and international program, will depend heavily upon the support of the enforcement community represented by the CVSA membership. After all, it is the roadside inspection officer who will make the decision, based upon the information available to him at the inspection station through IVHS technology, on whether or not to stop the truck and inspect it or to let it pass by because it has met certain safety criteria, has the proper economic and registration credentials, and complies with the size and weight limit laws.

2.

As you may know, the overall goal of the IVHS-CVO program is to concentrate inspection resources on the trucks that need to be inspected and to "electronically clear" those trucks that, based upon information available to the inspection officer, are in safe operating condition.

Until very recently, most, if not all, of the IVHS-CVO activity and demonstration projects, such as Help-Crescent in the West, and Advantage I75 in the Midwest and South, have concentrated on Weigh-in-Motion (WIM),and AVI (credentials) technologies. While these are of course important and necessary to the overall IVHS-CVO goals, they do not directly deal with specific safety functions and criteria.

Safety, as you might understand, is of paramount concern to the enforcement community and is the primary issue we are focusing on with respect to IVHS-CVO as plans and programs are developed to deploy it as a national program.

Thus, we have been encouraged by recent actions of FHWA-OMC in funding two safety operational tests for commercial vehicle Out-of-Service Defect Repair verification as a criteria for electronic safety clearance. One involving the states of Minnesota and Wisconsin, and one involving the state of Idaho. We understand there is a possibility that additional tests relating to Out-of-Service verification may be undertaken.

3.

We view inspection information, as close to real time as possible, as a basic and primary safety threshold for any type of electronic clearance program.

Roadside information on carrier history is certainly an important part of the equation for a reasoned decision to electronically clear a truck. But by itself, without driver and vehicle specific information, it is not adequate.

We are encouraged by these recent actions taken by the FHWA-OMC as well as by the organization of an IVHS-CVO Task Force within the OMC. We feel that this Task Force will help continue to ensure proper emphasis on safety in the overall IVHS-CVO program. Certainly, this is in keeping with the top three goals of Secretary Pena which include improved safety of all transportation modes.

I should also point out that CVSA has recently established its own IVHS Committee to further define this safety equation, to define more clearly the financial benefits to the States of IVHS-CVO, and to ensure the proper education and training of roadside enforcement personnel as this IVHS program takes shape.

In addition to safety, I would like to address another important aspect of IVHS-CVO. It is the fact that IVHS is really a new way for government, both federal and state, to conduct business as much as it is new technology. Most of the

technology is here, but we have a considerable way to go in terms of breaking down institutional barriers and "doing business" with the motor carrier industry in a different way. This means barriers among agencies within a state as well as among states, and between states and the federal government.

A lot of progress has been made in this area, largely as a result of a special program initiated by the FHWA in which grants were made to every state to study "institutional" barriers and recommend ways to overcome them.

We are pleased to see that the FHWA has announced a second round of Institutional Study grants, and that to be a recipient of any federal funds for such a study, a state must designate a State CVO representative for this effort, a position CVSA has championed for some time. This requirement is an important step forward, and one that hopefully will set a precedent for any future federal funding relative to IVHS-CVO programs. It will go a long way toward ensuring that IVHS-CVO has top priority in all states.

Mr. Chairman, we realize that you are not specifically focusing on IVHS in this particular hearing, but we felt that it was important to place it on the Committee's agenda, comment on it briefly from our perspective, and to suggest that in time you may want to focus more directly on IVHS-CVO and the progress being made in that arena. We will be happy to answer any questions you may have and to provide any additional information on IVHS-CVO that you may request.

Thank you again, Mr. Chairman, for the opportunity to appear before you today.

BEFORE THE SURFACE TRANSPORTATION SUBCOMMITTEE
OF THE HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

STATEMENT OF EDWIN L. HARPER
PRESIDENT OF THE ASSOCIATION OF AMERICAN RAILROADS

MOTOR CARRIER SAFETY
AND
HIGHWAY-RAIL GRADE CROSSING SAFETY ISSUES

June 14, 1994

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June 14, 1994

My name is Edwin L. Harper. I am President and Chief Executive Officer of the Association of American Railroads, representing the principal freight railroads of the United States, Canada and Mexico. AAR members employ 89 percent of rail employees and account for 96 percent of rail annual ton-miles and 91 percent of annual rail revenues. I appreciate the opportunity to present AAR's views on truck size and weight limits on the National Highway System (NHS), and to comment on certain highway-rail grade crossing safety concerns.

The Association of American Railroads supports H.R. 4496, which would freeze truck sizes and weights on the NHS. We commend Congressman Oberstar for his role as the champion of this important legislation. And we wish to thank Chairman Mineta and Chairman Rahall for their decision to schedule this hearing, which we hope will be the first step toward the eventual enactment of H.R. 4496.

Four basic principles are important in considering H.R. 4496:

- The legislation is an essential step toward fully realizing the 1991 ISTEA's vision of a truly intermodal national transportation system.

- The legislation is urgently needed to protect the federal investment in the National Highway System (NHS).

- Congress needs to act quickly to establish federal oversight of truck size and weight limits because the states' control of these limits is eroding alarmingly.

- Congress and the Administration should take action to increase highway-rail crossing safety, such as those proposals advanced by the railroads in Attachment I, Senator Danforth's S. 2127, and the DOT's Crossing Safety Action Plan.

In the remainder of my testimony, let me examine each of these four points.

I. <u>The legislation is an essential step toward fully realizing the 1991 ISTEA's vision of a truly intermodal national transportation system</u>.

Beginning with the very first word of the title, the 1991 ISTEA set a new course emphasizing <u>intermodal</u> transportation policies and solutions. ISTEA recognized that America needs to

move beyond unbalanced reliance on any single transportation mode.

Freight railroads are a crucial element of a strong intermodal transportation system. Because America is so big, railroad technology's efficiency in carrying freight over very long distances is essential in order to integrate our national economy and to keep it internationally competitive. Moreover, the redundancy created by the parallel rail and highway system creates a national transportation 'safety net'. This is vividly illustrated by the way railroads kept freight moving during the recent Los Angeles earthquake, last year's midwest floods, and this spring's Teamsters strike.

Greater reliance on rail intermodal will produce large social benefits: railroads are three times as safe, up to ten times less polluting, and three times as energy efficient as over-the-road transportation. Freight carried by rail is, by definition, freight that is not contributing to highway congestion, or to wear and tear on the highways.

ISTEA's freeze on further expansion of longer combination vehicle (LCV) operations took a giant step toward realizing the enormous potential of rail intermodal traffic. Of course, Congress was not primarily concerned about railroads when it enacted the LCV freeze. Instead, the freeze was a response to other highway users' urgent demands that they be shielded from the expansion of LCVs.

Since the LCV freeze the trend towards intermodal freight transportation has accelerated tremendously. The handful of pre-1991 truck/rail intermodal joint ventures has multiplied and grown, with more still to come.

In effect, the LCV freeze assured truckers and railroads that investments in intermodal services would not be suddenly endangered by a highway policy lurch toward LCVs. The resultant lower risks made investment in intermodal far more attractive, greatly contributing to rail intermodal's current high growth rates.

Valuable as it is, though, the insurance coverage provided by the freeze remains incomplete. Despite the freeze, large areas of size and weight policy on the NHS are not subject to Federal oversight. H.R.4496 would close this gap in Federal truck size and weight policy.

In doing so, it would further reinforce the national commitment to freight intermodalism by ensuring that Congress had comprehensive oversight of national truck size and weight policies. While nothing would preclude Congress from changing truck size and weight limits in the future, H.R. 4496 would guarantee the Congress' right to assess future changes before they are put in place.

The need for such Federal oversight is obvious. AASHTO

itself, during the 1991 ISTEA debate, sharply questioned the states' ability to maintain control of truck sizes and weights. AASHTO referred to what it called "a repeated ratchetting upward from one size and/or weight plateau to the other". (Letter from Hal Rives, AASHTO President, to Senator Quentin Burdick, Feb. 19, 1991.) AASHTO called instead for truck size and weight policy to "be forged in the context of an overall national freight transportation policy".

It is especially important that we assert this systematic Federal oversight as the nation prepares to concentrate Federal highway spending on a new core "National Highway System".

II. The legislation is needed to protect the federal investment in the National Highway System (NHS).

American taxpayers are being asked to make a high risk bet on the NHS. The bet is that the cost of the NHS won't explode because pavements are surviving to their design lives. The fact is, many of the Interstate System pavements have not survived to their design lives and it is costing billions of dollars. The non-interstate portions of the NHS are even more susceptible to premature deterioration, having often been constructed to standards below those of the interstates. And although the planned additional federal investment in the NHS is substantial, rapidly upgrading the engineering standards of the NHS is neither fiscally

nor physically possible.

Given the experience of our existing Interstate Highway System, failure to limit rigorously the weights and sizes of the trucks operating across the NHS would be fiscally irresponsible. As weights increase, pavement damage will accelerate. Heavier trucks operating on the non-interstate portions of the NHS will, therefore, mean accelerated pavement deterioration and a lower return on the Federal investment in the NHS. Such pavement damage also implies pressure from the states with higher truck weight limits (and poorer pavement quality) for a greater share of highway funds.

Similar concerns drove Congress to establish the federal Interstate Highway System weight limit in the first place. They are still valid for that system. The Symms Amendment, which has encouraged states to declare themselves exempt from the federal Interstate System truck weight limit, must be contained before it produces yet more problems. And the same logic demands a federal limit for the non-Interstate portions of the NHS.

Concerns about the safety of longer and heavier trucks raised by highway safety, automobile, and insurance interests reinforce the case for federal controls. Nationwide public opinion polls suggest that the general public strongly shares these concerns. Majorities in the range of 75 to 80 percent believe that longer and

heavier trucks are unsafe and make driving harder for the average motorists.

III. Congress needs to act quickly to establish federal oversight of truck size and weight limits because the states' control of these limits is eroding alarmingly.

Consider the following:

- The Symms amendment enabled eleven states since 1982 to claim new grandfather rights to issue "multiple trip divisible load" permits (i.e. permits for loads above the 80,000 pound Federal weight limit, based on the argument that the load is not divisible). When multiple trip divisible load permits are issued for things like milk it is clear that the permits are essentially open-ended permission to violate federal weight limits;

- The number of divisible load permits issued has grown 375% since 1983;

- States have liberally . lassified favored commodities as "non-divisible loads"; for example, two states have decided that milk is non-divisible;

- Eleven states now allow super long trailers 57' or

greater on the interstate (three more allow them on non-interstate roads) and more than half have legalized the them since 1990; and

- States continue to increase allowable weights on the non-interstate system (for example, just this spring West Virginia legislators tried to authorize certain coal trucks at weights up to 120,000 pounds).

Without a federal program to shore up the existing system of truck weight and size limits, those limits are at serious risk. While many truckers are not pressing to exploit opportunities to increase truck size and weight limits, elements within the trucking industry remain openly hostile to the LCV freeze. In a March 25, 1994 letter to Chairman Rahall, for example, the Western Highway Institute, an American Trucking Association affiliate, urged Congress to "free the private sector and state governments from federal limitations on gross vehicle weight caps and the LCV freeze".

Given this relentless pressure for higher limits, the existing gaps in truck size and weight regulation beget additional gaps, undermining the effectiveness of the existing regulation. Increased weights or lengths on some classes of highways inevitably generates a demand for comparable increases on the whole system (in the name of uniformity). And higher weights produce a demand for

additional length (to fully exploit the economics of the heavier weight limit). More length generates demands to increase weight (in order to fully exploit the additional cubic capacity).

Worse, this dynamic spreads from state to state creating what AASHTO has called the "ratchetting upward" of limits. In this process, individual states are easily whipsawed by the pressure to increase size and weight limits. Time after time, sheer political clout amplified by arguments about luring business from other states produces weight or length increases. The result is a kind of truck size and weight arms race among states. The bill, of course, is ultimately delivered to the Congress and the American taxpayer.

H.R. 4496 seeks to reinforce U.S. truck size and weight limits. Its basic philosophy is freeze rather than rollback. But it would shore up the existing regulatory structure to prevent further deterioration. In doing so it would, if enacted, prevent the system collapse that will become inevitable if Congress fails to act.

IV. Congress and the Administration should take action to increase highway-rail crossing safety, such as those proposals advanced by the railroads in Attachment I, Senator Danforth's S. 2127, and the DOT's Crossing Safety Action Plan.

We understand that some members have considered offering grade crossing amendments to H.R. 4385, the "National Highway System Designation Act of 1994", but during consideration of the legislation by the House deferred doing so, pending an opportunity to address the issues in hearings. Chairman Rahall agreed that the grade crossing proposals would be appropriate subjects for this hearing on motor carrier safety.

I certainly welcome any effort to reduce and even eliminate needless and senseless tragedy at highway-rail grade crossings. As may be recalled, a significant portion of my testimony before this subcommittee during your hearings on the NHS legislation on March 3, 1994, involved proposals to improve safety at grade crossings.

As a reflection of our concern about grade crossing safety, earlier this year the railroads put together a special task force, under the leadership of AAR, to develop a plan of action to ensure continued grade crossing safety improvement. The special grade crossing safety task force developed a 12-point plan that AAR shared with the Department of Transportation as industry input to their multi-modal effort to formulate a grade crossing safety action plan. The DOT's plan was just released on June 13, 1994. I have attached the full detailed crossing safety proposal with this statement (Attachment I), and would request that the "Railroad Industry Grade Crossing Policy Agenda for the 1990's" be made a part of the hearing record.

Grade crossing safety is an area where there has been a successful partnership among government, the railroad industry, and other transportation safety interests for many years. This partnership has resulted in reductions in annual public grade crossing accidents and fatalities of approximately 60 percent since the early 1970's. These successes have been accomplished primarily a result of the crossing engineering improvements carried out under the federal Section 130 Program, and the driver education/public information and traffic law enforcement efforts of the Operation Lifesaver Program.

I think it is important to note that the House Committee on Public Works and Transportation has been stalwart in its support and defense of the Section 130 Program and Operation Lifesaver. In July, 1973, the Subcommittee on Investigations and Review, of the Committee on Public Works, in reporting the conclusions of a six year investigation of the accomplishments and status of highway safety in America made the following determination:

> "Whose responsibility is it to see that maximum safety is incorporated into our motor vehicle transportation system?
>
> On this the subcommittee is adamant. It is the responsibility of Government and specifically those agencies that, by law, have been given that mandate. This responsibility begins with the Congress and flows through the Department of

Transportation, its Federal Highway Administration, the State Highway Departments and safety agencies, and the street and highway units of counties, townships, cities and towns. There is no retreating from this mandate, either in letter or in spirit."

Within one month the Highway Safety Act of 1973 was enacted into law. That historic law created and funded a national highway safety program specifically dedicated to enhanced safety at highway-rail crossings by providing for needed crossing engineering and warning device improvements, the Section 130 Program. Additionally, beginning in 1988, between $250,000 and $300,000 has been annually set aside from federal highway user revenues as a contribution to the nationwide Operation Lifesaver Program.

The Federal Highway Administration, in The 1993 Annual Report on Highway Safety Improvement Programs, estimates that the Section 130 Program and Operation Lifesaver efforts have prevented over 7,200 fatalities and 31,000 serious injuries since 1974. The support of the House Public Works Committee has been of critical importance to both of these crossing safety programs. Obviously, the contributions of the Committee toward improving safety at highway-rail crossings are impressive and have proven extremely successful. These outstanding results earned highway investments in grade crossing signals a cost benefit ratio of 2.7, higher than one-half of other safety investments made in the highway system,

according to the FHWA's annual safety report.

Now, I would like to specifically comment on the three draft grade crossing amendments which, while they have not been formally proposed, do raise issues which I would like to address in hopes of convincing the Subcommittee that these amendments would not contribute to enhanced safety on the highways, and could divert our energies from opportunities for more effective action.

The first draft amendment would reverse the ruling of the U.S. Supréme Court in Easterwood v. CSXT. The Supreme Court in Easterwood determined that certain state tort laws which assign to railroads responsibility for providing appropriate warning devices at grade crossings were preempted when federal funds had previously been spent to install crossing warning devices at specific crossings. The preemption would occur under provisions of the Federal Rail Safety Act of 1970.

The railroad industry firmly believes that the fault of the Easterwood decision is that it simply did not go far enough. Significant confusion exists concerning the responsibilities for providing improvements at highway-rail grade crossings. This is particularly crucial with respect to highway traffic warning devices at crossings. Several levels of government and private interests, including railroads, can be involved in various elements of the grade crossing warning device selection process, but only a

single entity must ultimately be responsible for the final decision concerning the need for and selection of warning devices at crossings. As established in the successful Section 130 Program, that ultimate responsibility must rest with state highway or transportation agencies. Those public agencies have responsibility for providing a safe highway environment, they have the necessary information concerning highway traffic and local development plans, and they have the appropriate highway traffic safety engineering expertise.

Except for the Easterwood confusion regarding the selection of highway warning devices, railroad responsibilities related to grade crossings consist of assisting in the Section 130 process by providing states with needed train traffic and certain other crossing information, ensuring proper crossing safety warning device operation (if installation and maintenance is performed by railroad personnel), conducting appropriate train operations, and providing necessary crossing sight distance on railroad right-of-way. Correcting the Easterwood problem would not affect these responsibilities which would continue.

Easterwood should not be reversed, but expanded to specifically identify state highway or transportation agencies as the entity ultimately responsible, regardless of the expenditure of federal crossing improvement funds, for determining the safety adequacy of grade crossings and selecting appropriate crossing

warning devices. I urge the Subcommittee to support a solution to the Easterwood problem along the lines suggested by Senator Danforth in S. 2127, the Administration in high speed rail legislation (S. 839), and the railroads in Item #3 of Attachment I.

The second draft amendment would reverse long established federal law and administrative findings by the Secretary of Transportation and require railroads to pay in excess of 10 percent of the cost of any federal construction project to improve safety at a grade crossing.

Section 130(b) of title 23, United States Code, required the Secretary of Transportation to determine the proportion of the cost of grade crossing safety construction projects which represents the net benefit to the involved railroad. The section further limited that potential proportion to 10 percent. In 1975, the Secretary fulfilled the mandate of Section 130(b) and determined that,

> "Projects for grade crossing improvements are deemed to be of no ascertainable net benefit to the railroads and there shall be no required railroad share of the costs."

Only in instances where the project would eliminate an existing grade crossing where active warning devices are either in place or have been ordered to be installed by a State shall there be a railroad share of the project cost. Even in those instances,

the railroad share and net benefit was determined by the Secretary to be only 5 percent.

By requiring a railroad share of the project cost of at least 10 percent, the amendment would overturn and completely ignore these findings of fact by the Secretary of Transportation concerning benefits to the railroads. Clearly, the consequences of adopting such an amendment would be to impose an arbitrary and inequitable tax on the railroads.

The third draft amendment would essentially direct the Secretary of Transportation to impose speed restrictions on trains at grade crossings purportedly as a means of enhancing crossing safety.

In reality, reducing train speeds at grade crossings tends to degrade crossing safety, rather than to improve safety. In the Federal Highway Administration's Railroad-Highway Grade Crossing Handbook, which is generally acknowledged to be the definitive textbook of grade crossing safety, it was determined as recently as 1989 that,

> ". . . some communities have passed ordinances restricting train speed for the purpose of improving safety. However, this practice directly reduces the level of service for highway traffic and may also affect safety. Because of the

longer period of time during which the crossing is closed to highway traffic, a motorist may take risks by passing over the crossing just ahead of a train. In many cases, risks such as these are not successful and collisions result."

Clearly, while the idea to reduce train speed at grade crossings may have been well intended and believed to improve grade crossing safety, experts in this area obviously are convinced that such an approach causes increased impatience and risktaking by motorists. The railroads believe that adoption of such an amendment, in light of such expert advice, would be inappropriate.

More appropriate steps might be for the Subcommittee to focus on procedures to eliminate highway-rail grade crossings, as we have proposed (Item #'s 4 and 5 in Attachment I), and included as elements of both the Danforth legislation and the DOT proposal.

The railroad industry continues to be extremely concerned about grade crossing safety and committed to reducing accidents and casualties at these dangerous intersections. We are confident that, with continued leadership, commitment, and cooperation among the Congress, DOT, and the railroad industry, legislation can be developed and enacted that will significantly reduce remaining accidents at grade crossings.

Thank you for the opportunity to provide this statement on

behalf of the railroad industry on these important issues and concerns.

Attachment I

RAILROAD INDUSTRY GRADE CROSSING POLICY AGENDA FOR THE 1990's
RECOMMENDATIONS SUMMARY

(March 1, 1994)

1. Driver Education/Public Information (Operation Lifesaver)

- o The federal government should finance a multi-year national grade crossing safety/Operation Lifesaver public awareness campaign to be conducted by Operation Lifesaver, Inc.
- o Federal Highway Administration annual general support for the National Operation Lifesaver Program should be increased to $500,000 from $300,000

2. Trespassers on Railroad Right-of-Way

- o The federal government and the railroad industry should conduct a substantial nationwide multi-media public education campaign to inform the public of the danger and illegality of trespassing on railroad property
- o A federal civil penalty of up to $2,500 should be adopted for conviction for trespassing on railroad property

3. Grade Crossing Improvement Responsibilities

- o Federal law should be enacted which specifically and uniformly establishes responsibilities among public and private entities for the determination of need and selection of warning devices at grade crossings
- o Railroads, rail labor, and the FRA should conduct railroad employee education programs emphasizing the unacceptability of violating railroad operating rules related to grade crossings

4. Elimination of Redundant Highway-Rail Grade Crossings

- o A federal grade crossing closure mandate and nationally uniform crossing closure process should be established
- o Federal guidelines should be adopted regarding the opening or creation of any new grade crossings

5. Separation of Highway-Rail Grade Crossings

- o Federal highway design standards should be adopted to require the ultimate elimination of all grade crossings on the National Highway System (NHS)
- o Federal highway design standards should be adopted which would require the grade separation of grade crossings with traffic above a certain defined level on non-NHS highway projects

- Federal guidelines should be adopted which require the elimination of all grade crossings in conjunction with high speed passenger rail lines

6. State/Local Locomotive Whistle Laws

- The FRA should immediately preempt all local or state laws restricting the sounding of locomotive whistles at grade crossings

7. Crossing Warning Device Problem Alert System

- A national grade crossing device problem alert system should be created, similar to the Texas 1-800 Number Rail-Highway Notification Program

8. Grade Crossing Traffic Law Violations

- A minimum fine of $500 should be required for violation of grade crossing traffic laws by motorists

9. Police and Judicial Enforcement of Grade Crossing Traffic Laws

- Federal highway safety bonus awards should be given to states for innovative pilot programs designed to increase enforcement of grade crossing traffic laws

10. Section 130 Grade Crossing Improvement Program Funding

- Earmarked annual funding for the Section 130 Program should be continued and increased to $185 million from $150 million

- Section 130 Program funding should be excluded from federal highway program obligation limitations and transfer provisions

11. Vandalism of Grade Crossing Warning Devices

- Vandalism of grade crossing warning devices should be made a federal civil crime, with a penalty of up to $2,500

12. Highway-Rail Crossing Research Needs

- The railroad industry supports a variety of grade crossing research initiatives in such areas as driver response to existing warning devices,improved crossing warning devices, low cost active warning devices, off-track train detection systems, train conspicuity (reflectorization), locomotive conspicuity (lights), and audible warning technology (whistles/horns).

RAILROAD INDUSTRY GRADE CROSSING POLICY AGENDA FOR THE 1990's

(AAR Board of Directors - Adopted March 1, 1994)

1. Driver Education/Public Information (Operation Lifesaver)

Operation Lifesaver (OL) is an active, continuing public education program designed to reduce the number of accidents, deaths, and injuries at highway-rail crossings. It is sponsored cooperatively by federal, state, and local government agencies, highway safety organizations, and the nation's railroads. The program attempts to increase public awareness of the highway-rail crossing environment, and improve driver behavior. In conjunction with its education program, Operation Lifesaver emphasizes the enforcement of existing traffic laws, and engineering improvements, including installation and upgrading of crossing warning devices.

Annually, the National Operation Lifesaver Program currently receives $300,000 from the Federal Highway Administration in general support, and approximately $100,000-$150,000 from the Federal Railroad Administration in project specific grants.

While the term "Operation Lifesaver" is registered with the U.S. Patent Office as a trademark belonging to Operation Lifesaver, Inc. (OLI), the non-profit organization which conducts the National Operation Lifesaver Program, adequate name recognition and public association of OL and grade crossing safety has been limited to those areas where OL efforts have been most concentrated.

A vastly intensified national advertising and public awareness campaign is needed to persuade the general public to recognize, and respond appropriately to, the inherent danger of highway-rail crossings.

Railroad Industry Policy:

Since a major threat to motorists stems from lack of awareness of the grave dangers of their behavior, government should take responsibility for a multi-year public awareness campaign designed to dramatically illustrate the life-or-death consequences of motorists' behavior at grade crossings. Federal funding grants have traditionally been made by the National Highway Traffic Safety Administration (NHTSA) to states and non-governmental entities to carry out innovative highway safety programs, including driver education and public awareness.

A campaign for children might include a nationwide contest to create and name a grade crossing safety/Operation Lifesaver mascot or symbol, similar to the "Smokey the Bear" character.

The railroad industry, in association with Operation Lifesaver, is in the process of developing a dramatic and hard-hitting television public service announcement campaign along the lines of South Carolina's high-recognition campaign against drunk driving and speeding. To supplement this effort, government could use a

currently popular film, such as the train-bus crash scene in "The Fugitive", to shockingly demonstrate the vulnerability of motor vehicles when involved in collisions with trains.

However designed, Operation Lifesaver's expanded national campaign must garner for the organization and its messages the same routine recognition and acceptance that MADD enjoys for its attack on drunk driving. The need to "Look, Listen ... and Live" at grade crossings must be as familiar as "Friends Don't Let Friends Drive Drunk".

The national grade crossing safety/Operation Lifesaver campaign should be conducted by Operation Lifesaver, Inc. Additionally, in order to assist OLI in the management of the campaign and the increased activity level following the effort, annual FHWA funding to OLI should be increased to $500,000.

. Trespassers on Railroad Right-of-Way

Issue:

The problem of trespassers on private railroad property is a continuing and increasing safety concern. While annual fatalities at highway-rail grade crossings, although unacceptably high, are being reduced almost every year, annual fatalities from trespassing are on the increase. During 1992, there were 533 trespassing fatalities.

Trespassing on private railroad property takes many forms. These include children shortcutting across railroad tracks on their way to school or play areas, curiosity seekers in railroad yards, hunters walking along rural rail lines, risktakers on railroad trestles and in tunnels, and even a resurgence of, in this case "yuppie" hobos.

Due in large part to the variety of types or circumstances of railroad trespassing, reasonable and effective solutions have been extremely difficult to achieve. Fencing of railroad right-of-way, for example, has been extremely expensive and totally ineffective. Where attempted, especially in urban areas, fences have been cut or knocked down almost as quickly as they can be erected.

Railroad Industry Policy:

The federal government and the railroads should develop and launch a substantial nationwide multi-media public education campaign to inform the public of the tremendous danger and illegality of trespassing on private railroad property, including isolated rural rail lines. The campaign should be multi-faceted in its approach, including various types of media and presentation techniques, and focused on the numerous types of trespassers (e.g., youth, adolescents, hunters, and even "yuppie" hobos).

In conjunction with this Trespasser Campaign, in an attempt to further deter railroad trespassing, federal fines should be adopted for anyone convicted of trespassing on private railroad property. These penalties could be comparable to those recommended for vandalism of grade crossing warning devices (i.e., a fine of up to $2,500).

3. Grade Crossing Improvement Responsibilities

Issue:

Significant confusion exists concerning the responsibilities for providing improvements to highway-rail grade crossings. This is particularly significant with respect to highway traffic warning devices at crossings. Areas of responsibility include such activities as:

a) Collection of crossing and related traffic information;
b) Determination of crossing safety adequacy;
c) Selection of crossing safety warning devices; and
d) Installation of such warning devices;

Several levels of government and private companies, including railroads, can be involved in various elements of the grade crossing warning device selection process.

Due to the confusion created by varying, duplicative, and even conflicting approaches to the grade crossing safety improvement process, inefficient and occasionally ineffective crossing safety decisions result, wasting time and vital resources, and, ultimately, putting the motoring public, railroad employees, and rail passengers at risk.

Railroad Industry Policy:

Federal law should be enacted which specifically and uniformly identifies crossing safety responsibilities for all involved parties.

Railroad responsibilities related to grade crossings should be limited to providing states with needed train traffic and certain other crossing information, crossing safety warning device operation (if installation and maintenance is performed by railroad personnel), train operations, and crossing sight distance on railroad right-of-way.

Additionally, railroads, appropriate rail labor organizations, and the Federal Railroad Administration should conduct employee education programs which specifically emphasize the safety importance, not only to railroad personnel, but to motorists and the general public of strict adherence to railroad operating rules by individual train crew members. Practices such as stopping trains so as to cause extended blocking of grade crossings, leaving trains stopped in a position to cause unnecessary activation of crossing warning devices, and train speed and whistle violations should absolutely be avoided.

4. Elimination of Redundant Highway-Rail Grade Crossings

Issue:

Rail safety officials have long advocated the closure of a large proportion of the public highway-rail grade crossings in the U.S. Many grade crossings are unnecessarily redundant, serving no significant transportation mobility or access purpose while continuing to constitute a rail and highway safety hazard.

State officials and railroads generally support the closure of unnecessary grade crossings, but are often frustrated in their crossing closure efforts by the emotional opposition of a few local citizens. The closure of grade crossings, rather than appropriately being an objective transportation safety decision, frequently evolves into an emotional/political confrontation.

Politics and mere driving convenience will continue to dominate debates over crossing closures until final decisions are ultimately vested with appropriate transportation safety authorities.

Railroad Industry Policy:

In order to facilitate the closure of redundant and unnecessary public highway-rail grade crossings, the railroad industry supports the establishment of a federal crossing closure mandate and a nationally uniform crossing closure process. Such a process should require state transportation agencies to identify and evaluate candidate crossings for closure, utilizing uniform crossing closure criteria established by the U.S. Secretary of Transportation, and to develop and implement a statewide crossing closure plan. Active participation in this National Grade Crossing Closure Program should be required of all states.

Additionally, the authority to close crossings should be established within the U.S. Department of Transportation (DOT) for use in instances where a state refuses to develop or effectively implement its crossing closure plan.

The DOT should also develop guidelines which states would be required to follow in deciding whether to permit the opening or creation of any new highway-rail grade crossings, recreational crossings (e.g., snowmobile trails and bicycle paths), and pedestrian crossings.

5. Separation of Highway-Rail Grade Crossings

Issue:

Highway-rail grade crossings can be eliminated by constructing grade separation structures. These structures generally are either highway overpasses or underpasses, usually highway bridges over rail lines.

The 45,000 mile Interstate Highway System has been constructed over the past 40 years with no at-grade highway-rail crossings, and the accident fatality rate on the Interstate is less than half the rate recorded for other highway systems.

There is no similar requirement to eliminate grade crossings on the proposed 159,000 mile National Highway System (NHS). The NHS will serve as the backbone of this country's entire network of highways, roads, and streets. While the NHS represents only about four percent of the 3.9 million miles of public roads, it is expected to carry over 40 percent of the Nation's highway traffic. In other words, these are and will increasingly be the most heavily travelled highways in the United States, and they are estimated to contain approximately 4,500 highway-rail grade crossings. Congress must approve the NHS by September 30, 1995.

Railroad Industry Policy:

Federal highway design standards should require the elimination of all highway-rail grade crossings on the National Highway System as a long term goal. Any NHS project which includes a grade crossing within the project termini must provide for its elimination, and no NHS route on a new alignment can include a grade crossing.

Additionally, federal criteria should be developed and adopted which would require the grade separation of certain crossings in conjunction with non-NHS federal-aid projects. Such criteria would primarily be based on highway and/or train traffic levels. Traffic above a certain defined level would require grade crossing separation.

Finally, federal guidelines should be adopted which would require the elimination, either through separation or closure, of all grade crossings on high speed passenger rail lines.

5. State/Local Locomotive Whistle Laws

Issue:

Numerous localities across the country have adopted laws and ordinances prohibiting the sounding of locomotive whistles as a warning to motorists approaching highway-rail grade crossings. The circumstances of these whistle bans vary to some degree, but most apply to grade crossings with active warning devices during nighttime hours.

A Federal Railroad Administration investigation of the safety consequences of local whistle bans in Florida comparing the grade crossing accident records of the Florida East Coast Railroad (subject to whistle bans) and the CSX Railroad (not subject to whistle bans) revealed dramatically higher accident rates on the FEC compared to that experienced by the CSX. This revelation was particularly startling due to the fact that the two railroads operated on parallel rail lines, with similar highway traffic levels, and essentially identical grade crossing characteristics. Subsequent to this study, the FRA preempted the local whistle bans applicable to the FEC in Florida.

Conrail, which unilaterally resumed the sounding of locomotive whistles at all grade crossings in 1991, despite local whistle bans in 30 communities, experienced a 200-300 percent reduction in accidents at the affected crossings.

Railroad Industry Policy:

The railroad industry supports a nationwide preemption of all local or state laws restricting the sounding of locomotive whistles at highway-rail grade crossings.

Locomotive whistle/horn research may ultimately develop audible alerting systems which cause reduced community disruption than present locomotive whistles, but the safety consequences of continuing to permit existing whistle ban laws in the interim is unacceptable.

7. Crossing Warning Device Problem Alert System

Issue:

Despite regular and thorough grade crossing warning device testing, inspection, and maintenance practices conducted by railroad personnel, the industry has occasionally experienced problems in receiving timely and accurate notification when warning device operational problems occur.

In 1982, the Texas legislature created the Texas 1-800 Number Rail-Highway Crossing Notification Program to help address this problem. Texas has installed signs at public crossings encouraging the public to call the 1-800 telephone number in the event of a crossing warning device problem. The calls are received by the Texas State Police, which in turn alert the appropriate railroad personnel. Operation of this system annually costs Texas approximately $100,000 for general operations, telephone service, and 1-800 sign replacement.

The railroad experience with the Texas 1-800 System has been generally positive. Although occasional "crank" calls are received and the public's perception of a warning device problem may be inaccurate, the system continues to provide valuable and timely information concerning warning device problems to appropriate railroad maintenance personnel.

Railroad Industry Policy:

The railroad industry supports the creation of a national grade crossing warning device problem alert system. While other effective systems could be developed, an expansion of the Texas 1-800 System would be supported by the railroad industry.

As is the case in Texas, public funding would be required to initiate and continue to operate the national alert system. Due to the national scope of this system, federal funds should be utilized. It would also be appropriate for such funds to be derived from highway user revenues, due to the fact that the primary beneficiaries of crossing warning devices are motorists.

. **Grade Crossing Traffic Law Violations**

Issue:

The violation of traffic laws relating to highway-rail grade crossings is the single most significant factor in grade crossing accidents. As an example, every year approximately 50 percent of the accidents at public grade crossings occur at crossings equipped with automatic train activated warning devices. Additionally, several accidents annually occur at grade crossings at which traditional highway "stop" signs have been installed.

Railroad Industry Policy:

In order to more effectively deter the violation of grade crossing traffic laws by motorists, increased fines for such violations must be imposed. The federal government should require states to establish a minimum fine of $500 for the violation of state or local traffic laws and ordinances related to highway-rail grade crossings.

9. Police and Judicial Enforcement of Grade Crossing Traffic Laws

Issue:

The establishment of significant fines to deter motorists from violating grade crossing traffic laws is an important step in improving crossing safety, but those laws must be vigorously enforced and the fines uniformly imposed in order for them to be effective.

Operation Lifesaver sponsored programs, such as "Trooper on a Train", have been somewhat helpful in increasing the awareness of the law enforcement community to grade crossing safety issues.

More clearly needs to be done in this difficult area.

Railroad Industry Policy:

States should be encouraged, through highway safety bonus awards, to develop and carry out innovation pilot programs designed to increase enforcement of grade crossing traffic laws by state and local police and the courts.

10.Section 130 Grade Crossing Improvement Program Funding

Issue:

The historic Highway Safety Act of 1973 created and funded a national highway safety program specifically dedicated to enhanced safety at highway-rail crossings by providing for needed engineering and warning device improvements (Section 130 Program)., Over $2.9 billion in highway user revenues has been made available to the states for crossing improvements under the Section 130 Program. In federal fiscal year 1994, approximately $150 million was apportioned to carry out this important program.

Without funding dedicated or earmarked for the Section 130 Program crossing needs would have rarely successfully competed with more traditional highway needs, such as highway capacity improvements and highway maintenance. Historically, highway safety, and particularly crossing safety, has fared very poorly in the competition for scarce financial resources. In fact, this problem was the primary reason a separate crossing improvement program was established in 1973. During the 40 years between 1934 and 1973 less than $95 million in federal funds was spent installing signs and warning systems at public crossings, and crossing accidents and casualties continued to increase.

As a direct result of the federal funding for highway-rail crossing improvements, annual crossing accident and fatality rates have been slashed by over 50 percent. In fact, the Federal Highway Administration estimates that the Section 130 Program has prevented over 7,200 fatalities and 31,000 injuries since 1974, and has an overall benefit-cost ratio of approximately 1.3.

Despite the proven success of the Section 130 Program, many states assign an extremely low priority to crossing improvement projects. Through the end of 1993, over $270 million of Section 130 Program funds remained unobligated by the states, and an additional $187 million had been transferred to other federal-aid highway program categories.

Railroad Industry Policy:

Earmarked funding for the Section 130 Program should be continued, and the annual funding level should be increased to at least $185 million. The "Rail-Highway Crossing Study" completed by the U.S. Department of Transportation in 1989 found that:

> "For warning systems, an estimated annual investment of $185 million in improvements is necessary to maintain current overall safety performance . . . An initiative to cost effectively reduce current accident levels would require another $30 million annually."

In order to increase state priority for Section 130 Program projects and increase crossing improvement spending, the authority

to transfer Section 130 Program funds to other federal-aid highway program categories should be eliminated and Section 130 Program obligations should no longer be included within the national limitation on federal-aid highway program obligations.

11. Vandalism of Grade Crossing Warning Devices

Issue:

Vandalism of grade crossing warning devices is a significant and continuing problem. Such vandalism manifests itself in a variety of ways, including damaged (often shot out) flashing light signals, and broken crossing gate arms or gate arms which have been tied or otherwise secured in an upright position, preventing their proper deployment.

The potentially catastrophic nature of grade crossing accidents, especially those which could result in the derailment of passenger trains, or those which involve school buses, or train or motor vehicle carried hazardous materials or explosives, demands the most severe penalty for grade crossing warning device vandalism.

Railroad Industry Policy:

Vandalism of highway-rail grade crossing warning devices should be made a federal civil crime. Conviction of such a violation should subject the offender to a fine of up to $2,500. Repeat offenders should be subjected to progressively more severe penalties.

12.Highway-Rail Crossing Research Needs

Issue:

There are several elements of the overall grade crossing safety formula which continue to require additional research.

For example, the widespread violation of grade crossing traffic laws clearly indicates a need to investigate the effectiveness of existing traffic control devices, particularly the standard "crossbuck" sign. The development and testing of alternative low-cost automatic warning systems would give states much needed flexibility, especially with respect to low traffic volume grade crossings. Additional research also seems to be needed on systems designed to provide supplemental warnings to motorists, such as locomotive reflectorization, train lighting, and crossing whistles or horns.

There are a number of sources of both funding and technical expertise that could be pursued to support grade crossing research. For example, none of the $471.6 million available in 1993 for research through the Technology Reinvestment Project being administered by the Advanced Research Projects Agency (ARPA) has been considered for highway-rail crossing related research. Moreover, many of the technical skills that reside in the defense industry, such as command, control, and communications technology, and human factors engineering, are appropriate for many of the grade crossing research needs. Another potential source of funding and expertise is through a cooperative research and development agreement (CRADA) with one of the national research laboratories, such as Argonne, Sandia, or Oak Ridge.

Railroad Industry Policy:

The railroad industry supports a variety of highway-rail grade crossing research initiatives (see Attachment I).

The railroad industry's role in such research should be that of an active partner and sponsor with the appropriate government agencies. Such arrangements will help ensure that the broad-based railroad knowledge and technical expertise essential to such research will be provided. These partnerships are also necessary to achieve acceptance of the research results by both the railroad industry and those government agencies ultimately responsible for implementation.

ATTACHMENT I

Highway-Rail Crossing Research Needs

1. Highway Driver Response: Investigate driver detection and understanding of, and responses to, grade crossing warning systems. This has been the subject of numerous studies, but the findings to date are incomplete and inconclusive. Questions that require better answers include those related to how well drivers detect various active and passive crossing warning signs and signals, how well they recognize and understand what the signs and signals mean, and how well they understand what they are supposed to do (e.g., slow down, yield, stop, maintain speed but look for approaching trains). Results from such investigations can provide the basis for performance specifications for warning systems and for improvements in driver education and awareness programs.

2. Low-Cost Active Warning Devices: Develop and evaluate low-cost active warning devices for low-density grade crossings. Such research could begin with the development of the functional requirements and performance specifications for such devices. These could be the basis for a request for proposal to manufacturers to develop prototypes. Manufacturers' prototypes could then be tested to determine their durability and effectiveness. Testing of effectiveness would require carefully controlled studies to determine whether the prototypes significantly influenced long-term driver behavior.

3. Improved Passive Warning Devices: Develop and evaluate improved passive warning devices for grade crossings. The approach could be the same as for the low-cost active devices. Such devices would incorporate the findings of highway driver response research.

4. Off-Track Train Detection Systems: Active crossing warning systems are now activated by track circuits that detect approaching trains. New and Improved technology argue for the investigation of train detection devices for activation of grade crossing warning systems that do not rely on track circuits.

5. Advanced Crossing Systems: Test and evaluate prototype crossing systems. One example is prototypes patterned after the ABB system now in use in Sweden. Features of this system include four-quadrant gates, and a crossing occupancy warning system that alerts the locomotive crew if a highway vehicle is on the tracks after the gates have been lowered. Other examples include "friendly

barrier" systems. One such system uses a spring-loaded barrier designed to safely absorb highway vehicle impacts. The barrier is stored under the highway and is raised when the warning system is activated. Another design has a spring-loaded net gate barrier similar to those used to catch jets landing on aircraft carriers. [FRA has indicated an interest in having AAR test prototypes of the X-2000 and friendly barrier systems at TTC.]

6. Train Conspicuity: FRA is currently evaluating how long reflectorized materials on freight cars and locomotives can last in the railroad environment before they become so dirty that their reflectorization properties are significantly diminished. The results are now expected around the end of 1995. However, no definitive research has been conducted to determine whether such reflectorization would significantly reduce grade crossing accidents. Conrail has already begun a program to install reflectorized material on its new and rebuilt locomotives and freight cars, and Burlington Northern is installing it on its locomotives.

7. Locomotive Conspicuity: FRA is investigating techniques to increase locomotive visibility, such as extra headlights, higher illumination headlights, ditch lights, strobe lights, lights to illuminate the front of the locomotive. Preliminary findings are now expected to be published this summer. Further research should be conducted to determine whether any of these schemes significantly influence driver behavior and reduce crossing accidents.

8. Horn Systems: FRA with Union Pacific is investigating horn systems mounted at grade crossings facing highway traffic and activated by approaching trains at two crossings in Nebraska. The results are scheduled to be available sometime mid-year. If these preliminary tests show positive results, such systems should be installed at other test locations to determine their long-term effect on driver behavior at various crossing configurations.

OCTA

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STATEMENT BY STAN OFTELIE
ON BEHALF OF THE ORANGE COUNTY TRANSPORTATION AUTHORITY
REGARDING MOTOR CARRIER SAFETY AND BUS WEIGHTS

June 14, 1994

I am pleased to transmit comments on behalf of the Orange County Transportation Authority (OCTA) regarding motor carrier safety and vehicle weight limitations. The Authority strongly supports federal efforts to restrict overweight vehicles on the nation's interstates and highways to improve the safety of all motorists and to protect our investment in the transportation infrastructure. However, we are deeply concerned that those weight limitations may inadvertently prevent transit operators throughout the nation from providing bus services utilizing interstate and highway routes. At this point in time, many public buses are overweight when carrying normal passenger loads in part due to the Clean Air Act and Americans with Disabilities Act mandates which are necessary to improve air quality and provide much needed transportation services for disabled persons.

In effect, there is a conflict between providing efficient transit services and protecting the underlying transportation infrastructure. We would like to resolve the issue by providing a long-term solution and not by permanently exempting buses from weight limitations. Simply granting public transit vehicles permanent exemptions or labeling them non-divisible, thus allowing the States to issue waivers, will not serve the best interest of the nation.

We bring a unique perspective to this subject because OCTA is one of few public transit agencies upon which the rear-axle weight limit has been enforced. In fact, the California Highway Patrol enforcement of axle weight regulations on our transit vehicles led us successfully to seek a resolution requesting a federal study from the California Legislature. We also worked with the American Public Transit Association and the California Transit Association to include the bus weight language in the Fiscal Year 1993 Transportation Appropriations Act.

Additionally, OCTA has state mandated responsibilities for highway programming and is the major transit operator for the 2.5 million residents of Orange County, California. The single rear-axle limit affects OCTA on two levels: as the agency delegated responsibility for improving highways and as the preeminent public transit agency. It is the later that presents immediate concerns for OCTA.

Orange County Transportation Authority
550 South Main Street / P.O. Box 14184 / Orange / California 92613-1584 / (714) 560-OCTA (6282)

OCTA is working to comply with all federal and state laws, however, there currently is not a bus readily available on the marketplace that would allow the public transit operators to carry full loads within the 20,000 pound single rear-axle weight limit. Additionally, federal Clean Air Act and Americans with Disabilities Act requirements have added more weight to the existing federally certified and funded bus fleet.

Interim measures need to be taken, however, OCTA strongly opposes the following options:

- Determining that public transit vehicles are non-divisible with passengers. Non-divisible state permits often have fees attached which public transit agencies, ourselves included, could not afford.

- Granting public transit vehicles a permanent exemption to the single rear-axle weight limitation. This would ignore sound policy to protect the public's investment in the pavement and would create a new set of long-term problems.

- Installing second rear-axles on buses in the existing fleet. These vehicles would meet the weight limit by distributing the weight over more axles. However, the three-axle vehicle is actually heavier and would cost more to operate. Additionally, this vehicle is now only available with one passenger door which would significantly impact schedule time.

The ultimate solution would be to reduce the weight of the typical heavy duty transit vehicle by 5,000 pounds. This would require a total redesign of existing buses. Unfortunately, the bus industry is very depressed and can not afford to finance the new product development. But at the same time with federal and state subsidies falling, ridership down and a declining farebox, the public transit agencies can not afford any potential fines nor fees associated with overweight vehicle permits.

Thus, OCTA would like to propose that the issue be resolved through a phased approach. First, all existing public transit vehicles and those purchased prior to 2004 would be permanently exempted from the single rear-axle weight limitation. Vehicles purchased after 1999 would be required to have reduced rear-axle weights as close as possible to 22,500 pounds or lower. By 2004 the rear-axle weights of buses would be expected to be reduced to 20,000 pounds. During that same period of time, the Federal Transit Administration could provide assistance by:

- Phasing in updated bus certification and procurement standards, such as making vehicle weights a factor in the rating of proposals. This would create a competitive environment among bus manufacturers to gain the new market for advanced technology buses.

- Continuing to support advanced technology consortiums, such as the Advanced Technology Transit Bus project.

- Providing public transit agencies with adequate means to purchase, operate and maintain the more expensive newly-designed buses.

In summary, the lighter vehicles generally will be less expensive to operate, will emit lower emission levels, and should contribute to lower road construction and maintenance costs.

On February 10, 1994, OCTA submitted the attached comments to the Federal Highway Administration and Federal Transit Administration detailing our specific concerns regarding bus weights. The agencies must submit a joint study on the issue to Congress by October 6, 1994, with recommendations. It is our greatest hope that the Administration and Congress will adopt an approach to the problem that will promote the long-term good for both mass transit and highways.

We hope that our perspective to this important issue is helpful to the Subcommittee and that the Authority may continue to work with you towards a favorable resolution.

Federal Transit Administration

[FHWA Docket No. 93-33]

Study of Axle Weights of Public Transit Buses; Request for Comments

AGENCIES: Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), DOT.

ACTION: Notice; request for comments.

SUMMARY: This is a joint request for information to assist the Secretary of Transportation (Secretary) in responding to a requirement in section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) to conduct a study of the maximum axle weight limits of public transit vehicles on the Interstate Highway System. The study results must be submitted to Congress by April 6, 1994. All the responses and comments will be fully considered before the study is submitted.

DATES: Responses to this request must be received on or before February 14, 1994.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 93-33 Federal Highway Administration, Room 4232, HCC-10, Office of the Chief Counsel, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 4:15 p.m. e.t., Monday through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Klimek, Office of Motor Carrier Information Management, at (202) 366-2212, Mr. Charles Medalen, Office of Chief Counsel, at (202) 366-1354, Federal Highway Administration; or Mr. Vincent R. DeMarco, Office of Engineering Evaluation, at (202) 366-0224, Mr. Richard Wong, Office of Chief Counsel, at (202) 366-1938, Federal Transit Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Section 341 of the DOT and Related Agencies Appropriations Act, Public Law 102-388, 106 Stat. 1520, at 1552, amended section 1023 of the ISTEA, Public Law 102-240, 105 Stat. 1914, by adding a new paragraph (h), which, in paragraph (h)(2), required the Secretary to conduct a study of the maximum axle weight limits of "public transit vehicles" on the Interstate System. In paragraph (h)(1), the legislation also exempted "any vehicle which is regularly and exclusively used as an intrastate public agency transit passenger bus" from the single- and tandem-axle weight limits imposed on the Interstate System by the second sentence in 23 U.S.C. 127 for 2 years from the effective date of the legislation, October 6, 1992. By using this language Congress evidently intended the subject of the study to be broader than the exemption. We do not believe, however, that the study should consider all vehicles that may transport the public. For example, it is unlikely that school buses would ever exceed Interstate axle weight limits. Furthermore, based on the language in paragraph (h)(2), we believe that "public transit vehicles" mean only those operated for or on behalf of a public agency, and not just any vehicle used to transport the public. Consequently, comments are sought on public transit vehicles which are operated by or on behalf of a political jurisdiction or regional transportation agency to transport the general public on specified routes which include the streets and highways within such jurisdiction and neighboring jurisdictions but excluding school buses. Such vehicles will be referred to as public transit buses in this notice.

The statute requires the Secretary to consider current public transit bus design standards, the implications for such standards of the Americans with Disabilities Act of 1990 (ADA) and Clean Air Act (CAA) requirements, and the potential impact of revised design standards on public transit bus ridership capacity, operating and replacement costs, air quality concerns, and highway wear and tear.

Axle weight limits which all States must adopt and enforce on the Interstate System are set forth in 23 U.S.C. 127. These are 20,000 pounds on a single axle and 34,000 pounds on a tandem axle. The latter is defined in 23 CFR 658.5(j) as two or more consecutive axles more than 40 inches apart but not more than 96 inches apart. Higher axle weight limits which were in effect in a State on July 1, 1956, are "grandfathered." Failure of a State to adopt and enforce these weight limits on the Interstate System may result in that State being penalized by the loss of Federal highway funds otherwise available under 23 U.S.C. 104.

The issue of overweight rear axles on public transit buses has surfaced periodically over the years. In its review of Washington State's certification of size and weight enforcement for FY 1990, the FHWA noted that the State issued permits to allow overweight rear axles on articulated public transit buses operated on the Interstate System in Seattle. Resolution of the matter was deferred pending further study of the problem by the FHWA. These efforts were superseded by the legislation requiring this study.

The most recent incident relating to the rear axle weight of public transit buses occurred in the fall of 1991 when the California Highway Patrol (CHP) began enforcing the State's single-axle weight limit against public transit buses in Orange County, California. A letter dated January 24, 1992, from the Orange County Transit Authority (OCTA) indicated that the CHP required passengers to be off-loaded from some buses until legal axle loads were achieved. In a letter dated February 11, 1992, the CHP asked that the FHWA investigate the matter of OCTA bus acquisitions and advised that it would continue to enforce the State's single-axle weight limit. One of the justifications offered to the OCTA by the CHP is that failure of the State to enforce axle weight limits on the Interstate System could result in the State being penalized by the loss of Federal highway funds under 23 U.S.C. 141(c)(2).

Based on information from the FTA's Altoona Bus Testing and Research Center and a 1983 Battelle Report, "Test Bed Transit Bus Fuel Economy Tests" [UMTA-IT-06-0219-11-2], the FTA compiled the following chart of buses currently available from manufacturers. "Curb weight" means a fully fueled bus without passengers; "seated weight" is the curb weight plus full seated capacity at 150 pounds per passenger; and "standing weight" is the seated weight plus full standee capacity at 150 pounds per 1.5 square feet of free floor space. "ADB" means Advanced Design Buses which refers to the current standard design adopted in the late 1970's. "CNG" means compressed natural gas and "LNG" means liquified natural gas.

AXLE WEIGHTS—STANDARD SIZE HEAVY DUTY PUBLIC TRANSIT BUSES

Bus manufacturer	Front axle weight	Rear axle weight	Pass. seated/standing	Rear axle over weight
Flexible 870, ADB, 40':				
Curb Weight	7,940	18,240	0/0	0
Seated Weight	10,970	21,970	48/0	1,970
Standing Weight	12,820	24,050	48/24	4,050
Flexible 870, CNG, ADB, 40':				
Curb Weight	12,375	19,725	0/0	0
Seated Weight	14,875	23,975	45/0	3,975
Standing Weight	16,375	26,975	45/30	6,975
Gillig Phantom, ADB, 40':				
Curb Weight	10,200	18,450	0/0	0
Seated Weight	12,950	22,700	48/0	2,700
Standing Weight	14,500	25,600	46/30	5,600
Stewart & Stevenson T-40 Apollo, ADB, 40':				
Curb Weight	9,250	18,450	0/0	0
Seated Weight	12,010	22,590	46/0	2,590
Standing Weight	12,850	26,250	46/30	6,250
Neoplan AN440A, ADB, 40':				
Curb Weight	8,990	18,840	0/0	0
Seated Weight	11,850	22,480	42/0	2,480
Standing Weight	12,900	24,780	42/21	4,780
Ikarus 416, LNG, ADB, 40':				
Curb Weight	11,500	20,215	0/0	215
Seated Weight	14,100	24,325	44/0	4,325
Standing Weight	15,130	27,400	44/29	7,400
Ikarus 416, ADB, 40':				
Curb Weight	10,100	18,860	0/0	0
Seated Weight	12,740	22,820	44/0	2,820
Standing Weight	14,600	25,760	44/32	5,760
BIA Orion V, ADB, 40':				
Curb Weight	8,573	17,307	0/0	0
Seated Weight	11,424	21,358	47/0	1,356
Standing Weight	14,499	25,040	47/43	5,040
BIA Orion V 502, ADB, 36':				
Curb Weight	8,800	17,900	0/0	0
Seated Weight	10,300	21,450	36/0	1,450
Standing Weight	12,450	23,750	36/28	3,750
New Flyer D-40, 40':				
Curb Weight	9,900	18,900	0/0	0
Seated Weight	12,450	22,900	48/0	2,900
Standing Weight	15,050	26,050	48/38	6,050
New Flyer D-40LFS, 40':				
Curb Weight	7,700	17,850	0/0	0
Seated Weight	8,800	21,050	29/0	1,050
Standing Weight	10,800	22,800	29/23	2,800
New Flyer D-35, 35':				
Curb Weight	9,100	18,150	0/0	0
Seated Weight	11,500	21,750	40/0	1,750
Standing Weight	14,000	23,800	40/30	3,800
TMC T80206 RTS, ADB, 40' Methanol:				
Curb Weight	9,750	19,400	0/0	0
Seated Weight	12,850	23,050	45/0	3,050
Standing Weight	15,050	28,300	45/35	8,300
TMC T80206 RTS, ADB, 40':				
Curb Weight	10,000	17,600	0/0	0
Seated Weight	12,700	21,500	45/0	1,500
Standing Weight	14,250	25,200	45/34	5,200

Articulated Buses

Bus manufacturer	Front axle weight	Mid axle weight	Rear axle weight	Pass. seated/standing	Rear axle overweight
Breda 350, 61':					
Curb Weight	13,260	15,545	20,460	0/0	46
Seated Weight	14,000	21,500	23,145	64/0	3,14
Standing Weight	14,800	28,380	26,380	64/68	6,38
Ikarus 436, 60':					
Curb Weight	12,000	10,200	20,400	0/0	40
Seated Weight	13,500	18,000	24,000	60/0	4,00

Articulated Buses

Bus manufacturer	Front axle weight	Mid axle weight	Rear axle weight	Pass. seat-kneeling	Rear axle overweight
Standing Weight	15,050	20,060	26,540	60/67	6,540

*From Battelle Report UMTA-IT-06-0219-11-2. All other data obtained from Altoona Bus Testing Center.

Comments are requested on the following matters and any others relating to the study:

1. Are there vehicles other than those covered by the definition which should be included in the study? Please advise which ones, if any, and why they should be included.

2. Is the chart included in this notice reasonably accurate? If not, what specific changes should be made and why?

3. In what jurisdictions (such as cities, counties, or transportation districts) in each State are public transit buses operated on the Interstate System?

4. Do public transit buses in any of these jurisdictions operate under overweight permits for single axles, middle axles on articulated three-axle buses, and rear axles? If so, how much overweight is allowed on each? How long a period of time do such permits cover, and what do they cost?

5. How many new public transit buses are purchased for use in the United States each year? Where does the money come from to purchase them?

6. How many miles do public transit buses with overweight single, middle, and/or rear axles operate on the Interstate System in each jurisdiction or State each year?

7. How much additional weight, if any, will single front and rear axles on public transit buses each have to carry in order to comply with the ADA and CAA? Please specify, in general, what additional systems or equipment will be needed to comply with these Acts. What will be the impact of these requirements on operating and replacement costs of transit buses, air quality, and highway wear and tear?

8. What effect would designing public transit buses to meet the current 20,000-pound single-axle weight limit have on transit riding capacity, operating and replacement costs, air quality, and highway wear and tear?

9. What are the problems associated with the use of tandem axles on public transit buses (e.g., maintenance, passenger capacity, cost, maneuverability, etc.)? If tandem middle and rear axles were required, should the use of existing public transit buses continue to be allowed for some period of time? If so, how long?

10. What is the average useful life of public transit buses? Is there a market for used public transit buses? What are the three most important factors, according to rank, affecting the selling price of used public transit buses?

11. Would it be feasible to design two types of public transit buses, one to meet the axle weight limit on the Interstate System and the other designed for use off that system? Please give reasons.

12. How much reduction in the weight of public transit buses could be achieved with little or no reduction in passenger safety by the use of carbon fiber (graphite) compounds, "honeycomb sandwich" panels, and other aerospace-type materials? How would the cost of such buses compare with those presently in use?

13. Should a permanent exemption from the Interstate System single-axle weight limit be authorized for public transit buses, or should the single-axle weight limit for public transit buses be raised to some higher limit? If so, what should that higher limit be? Please explain.

14. Should the FHWA adopt a policy to consider public transit buses with passengers nondivisible so that States could issue overweight permits to authorize them to use the Interstates? Why or why not?

15. What efforts have been made by public transit bus manufacturers to comply with the maximum single-axle Interstate System weight limit? Cite specific weight reduction programs and the results.

16. Without a major redesign of public transit buses, could a weight reduction program be expected to bring new buses into compliance with the single-axle weight limit on the Interstate System? Why or why not?

17. What would be the estimated time and cost required to design, test, and put into production a single rear-axle public transit bus that would meet the Interstate single-axle weight limit as well as all other applicable Federal, State, and local requirements? What would be the estimated production cost of such a public transit bus?

(Sec. 1023, Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102-240, 105 Stat. 1914, as amended by sec. 341, Pub. L. 103-866, 106 Stat. 2160)

Issued on: November 8, 1993.

Rodney E. Slater,
Federal Highway Administrator.

Gordon J. Linton,
Federal Transit Administrator.

[FR Doc. 93-28143 Filed 11-15-93; 8:45 am]

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COMMENTS BY THE ORANGE COUNTY TRANSPORTATION AUTHORITY ON THE STUDY OF AXLE WEIGHTS OF PUBLIC TRANSIT BUSES FHWA DOCKET No. 93-33

1. The definition of "public transit vehicles" seems to be comprehensive. It is crucial that the study encompass all public transit services offered by the Orange County Transportation Authority (OCTA) and its many private sector contractors. In addition, the study should consider the after-life usage of the public transit vehicles as described in Question 10.

2. The chart accurately depicts the buses represented, however it does not include the Superbus as noted below. It also does not consistently include known information on weight variations to the buses such as: fuel (Liquid Propane Gas (LPG), Compressed Natural Gas (CNG), Liquid Natural Gas (LNG) and Methanol), electric (battery, fuel cell, hybrid), and carbon fiber materials. These weights should be included in the bus weight chart as described in Question 7 of this notice for comments.

The following bus should be included in the study:

SUPERBUS

OCTA operates the Superbus on one route which traverses the Interstate highways. The cab and trailer Superbus was introduced for added efficiency and to capture a new market -- single commuters along the major interstate arterials. Currently, the Superbus delivers 48,000 trips per year, with plans to expand the service to accommodate two new routes increasing service to 700,000 trips per year. These buses will remain in service until the year 2009. Specific characteristics of the Superbus are as follows:

	FRONT AXLE	MID AXLE	REAR AXLE	SEATED/ STANDING
CURB WEIGHT	10,620	13,000	13,080	0/0
SEATED WEIGHT	10,620	17,350	17,430	58/0
STANDING WEIGHT	10,620	19,975	20,055	58/35

3. OCTA was created by California statute to provide highway and mass transportation services for the entire Orange County region. OCTA operates an extensive public transit system including 15 bus lines traveling on interstate highways through more than 36 cities and two counties (Orange and Los Angeles). In total, these buses serve over 3.4 million commuters per year and log over 650,000 miles on an annual basis on the Interstate system. OCTA's bus routes include the following interstate highways: I-5, I-405, I-605 and I-710. For a complete chart of OCTA bus routes operating on the Interstate system, please see Attachment A.

4. As of yet, the state of California has not issued overweight permits for public transit buses traveling on the Interstate system. Currently, California offers permits for nondivisible overweight loads and overdimensional loads and vehicles, but not for divisible overweight loads. In both cases of permits, fees are charged on either a per trip basis or annually. According to the 1993 Federal Highway Administration report entitled, "Overweight Vehicles – Penalties & Permits: An Inventory of State Practices for Fiscal Year 1991," California issues the following permits:

CALIFORNIA OVERWEIGHT PERMIT FEE SCHEDULE

	SINGLE TRIP	MULTIPLE TRIP	ANNUAL
NONDIVISIBLE OVERWEIGHT LOADS	$15.00	See annual.	$85.00
DIVISIBLE OVERWEIGHT LOADS	No permits offered.	No permits offered.	No permits offered.
OVERDIMENSIONAL LOADS AND VEHICLES	$15.00	See annual.	$85.00

Furthermore, the California vehicle code (§35550) states, "the gross weight on the rear axle only of a bus shall not exceed 20,500 pounds." (Attachment B). This varies slightly from the federal standard of 20,000 pounds.

OCTA buses on line 85 were cited by the California Highway Patrol (CHP) for being over the rear axle weight standard. The CHP bus inspection reports are included as Attachment C. The CHP by directive from state headquarters has suspended such enforcement during the 2-year study and until further notice.

As a related issue, OCTA is concerned about the accuracy and implementation of the federal/state size and weight certification program. On December 16,

1993, the Federal Highway Administration (FHWA) published an Advance Notice of Proposed Rulemaking; Request for Comments on the Certification of Size and Weight. In this notice, the FHWA cites operational tolerances at scales,

unknown amount of pavement wear attributable to vehicles with special permits, inadequate enforcement, unclear sanction procedures and other issues as problematic within the Certification of Size and Weight program. While OCTA would like to resolve the issue and conform with appropriate federal laws, it is unjust that our buses were singled out using measurements which may not be accurate and standards which may need to be revised.

Nonetheless, to address the immediate issue at hand and seek federal resolution, OCTA worked with state Senator Marian Bergeson. On July 19, 1992, the Senate Joint Resolution 39 was chaptered by the California Secretary of State. (Attachment D). This resolution resolved, among other things, that,

> "(t)he Legislature of the State of California respectfully requests the Congress of the United States and the United States Department of Transportation to address the disparity between vehicle axle weight limit standards and the design and safety weight limits for federally funded transit vehicles, and to resolve the weight limit issues for passenger buses so public transit operators can continue to serve the maximum number of passengers, in an economically efficient manner, without jeopardizing passenger safety or the integrity of road and highway systems."

The California Legislature did more than provide for temporary relief from further CHP actions. By resolution, it recognized the importance of addressing the core of the bus weight problem -- resolving the "disparity" between FTA bus certification standards and FHWA single rear-axle weight limitations. Issuing overweight permits would not resolve the matter in a cost effective or fair manner. More needs to be done.

5. According to the American Public Transit Association statistics there are approximately 2,000 new 40-foot transit buses purchased annually in the United States. OCTA plans to purchase approximately 400 additional 40-foot alternative fuel, low floor buses in the next seven years. (This purchase may be scaled back to 300 buses due to financial contraints). In most cases, public transit vehicles are purchased with a mix of federal, state, and local funds. As established by federal guidelines, funding is usually split between the federal government and the public transit agency as 80 percent Federal Transit Administration and 20 percent local match. OCTA typically derives its local match funding from state local transportation funds (1/4-cent sales tax) and state transit assistance funds (gas/diesel sales tax).

6. As depicted in Attachment A, OCTA operates 15 bus lines on the interstate system utilizing over 75 buses. On an annual basis these buses travel more than 650,000 miles on the highways. However, not every bus operating on these routes is overweight. The weight of the bus largely depends on the daily bus ridership. In Orange County the California Highway Patrol ticketed buses on route 85 for overweight violations, using an inexact standard of "not allowing standees."

7. While OCTA strongly supports the evolution of cleaner and more accessible public transit vehicles, conflicting federal mandates could retard the effective implementation of the new requirements in a timely manner. As certified by the FTA, public transit vehicles with a full seated passenger load, in many cases, are already exceeding the single rear-axle weight limit. By adding extra weight from alternative fuel engines to meet Clean Air Act (CAA) standards and wheelchair lifts mandated by the Americans with Disabilities Act (ADA), the vehicles will exceed the rear axle weight for traveling on the Interstate system. If a public transit vehicle is not carrying a full seated passenger load, it may not exceed the FHWA weight limitation.

For example, using alternative fuels will add between 500 to 2,500 pounds to the weight of current bus designs. In some cases, such as CNG, the buses also will be laden with the additional weight of heavy storage tanks. This extra weight for alternative fuel engines will primarily be carried on the rear axle. Currently, bus manufacturers do not have vehicles which meet both weight limits and emission levels mandated by the CAA. If alternate fueled transit buses are to comply with the 20,000 pound axle weight limits, the buses would have to be certified for fewer passengers and be smaller than the standard 40 foot buses. Reducing passenger capacity would negatively affect the public transit agencies' ability to deliver services to commuters and meet state (farebox recovery ratio) and operational efficiency requirements.

At the same time, ADA requirements such as wheelchair lifts and tie-downs have added more weight to the current bus fleet. According to the Washington State Transit Association, the average wheelchair lift weighs more than 1,000 pounds.

Historically, each enhancement made to the transit bus equates to added weight, which in turn equates to the need for more horse power, causing increased fuel consumption, a need for larger on board fuel storage and larger brake systems/retarders, as well as increased utility loads, such as, pneumatic, hydraulic and electric. These enhancements and resultant vehicle/systems upgrades tend to produce a "snowballing" effect. The most viable solution to remove the snowball effect would be to redesign public transit buses to meet the needs of today's society. Improvements such as low floors and advanced lightweight materials will significantly reduce overall bus weight, thus allowing CAA and ADA requirements to be met.

The following is a chart of bus weight increases provided by the Washington State Transit Association:

ESTIMATED BUS WEIGHT INCREASES DUE TO FEDERAL REGULATIONS

ITEM	NET WEIGHT INCREASE (POUNDS)
Windshield washers FMVSS 104	25
Driver's seat belt FMVSS 207	20
Windows as emergency exits, roof hatch FMVSS 217	80
Wheelchair lift ADA	1000
Two tiedowns (including folding seats) ADA	50
PA system ADA	35
Safety standards White Book	*
Crashworthiness	500
Back-up alarm	10
Energy-absorbing seats	60
Impact-absorbing bumpers	50
Battery master switch	5
Fire detectors	10
	Subtotal 1845 lbs.
Clean diesel/alternate fuels EPA	
Diesel with trap oxidizer	400
Methanol	1600
Compressed Natural Gas (CNG)	2700
Liquified Natural Gas (LNG)	1400

Weights above are estimates for the net weight increase when the item listed above is added to a 35 or 40-foot diesel bus. * White book safety standards are technically not applicable to non-Advanced Design Buses, but in practice all buses generally meet them.

Source: Seattle METRO, October 1991

In the meantime, public transit operators must continue to work towards compliance with both federal and state ADA and CAA mandates. OCTA buses are already in compliance with ADA wheelchair lift requirements. However, under air quality management plans for the South Coast Air Basin, OCTA must phase out diesel-powered urban buses by 2010. At this time diesel engines do not meet new state air quality standards that will take effect in 1996. To meet these deadlines, OCTA must begin to phase in the heavier alternative fuel vehicles in the next purchasing cycle.

Estimating the damage to the pavement caused by overweight public transit vehicles is difficult at best. According to California's existing overweight permit fee schedule for a non-divisible multi-trip vehicle, each overweight bus would cause $85.00 of damage to the pavement on an annual basis. This does not account for the actual number of miles traveled on the Interstate nor does it seem to accurately represent the costs of repairing the pavement. It might be possible to provide a more detailed calculation based upon the standard 18,000 pound equivalent single axle load (ESAL-mile) for each bus operating on the interstate, but basic assumptions would still have to be made, including cost per ESAL mile and the average weight of public transit buses. In any event, if public transit vehicles are to provide environmentally clean and efficient transportation without damaging the pavement, it would require a complete redesign of existing bus models available to public transit operators.

8. Unless the design of a new public transit bus includes major structural improvements, such as advanced lightweight materials, it would be impossible to meet the 20,000 pound rear-axle weight limit without jeopardizing service levels and operations efficiency. If the single rear-axle weight limit were to be met without major improvements, it would result in the loss of carrying capacity by approximately 10 to 15 passengers. With the use of alternative fuels it would necessitate an even greater reduction of passenger capacity. A reduction of carrying capacity by 10 to 15 passengers would have a seriously detrimental effect on farebox returns, service levels, and operating and bus replacement costs. Additionally, if passenger capacity is reduced for buses on interstate highways, this could result in more commuters driving alone in their cars contributing to both traffic congestion and air pollution.

9. Tandem axles would not be a feasible solution to distributing the weight of overweight public transit buses. Currently, tandem axle buses are equipped with only one door, which leads to accessibility problems for people trying to board or exit the vehicle. To overcome this difficulty rear doors could be added, but to do so would require an adjustment to the rear seating since the second door would not be in its traditional location. The modified seating arrangement would increase the vehicle's dwell time for loading and unloading passengers. Additional problems with the use of tandem axles are increased capital,

operational, and maintenance costs. If tandem axles were to be required, the existing bus fleet should be allowed to operate for each vehicle's useful life as established by Federal Transit Administration regulations.

10. The average useful life of a public transit bus operated by OCTA is 12 years. Thereafter, the vehicles are usually auctioned off at very low prices to non-profit organizations, such as schools or private sector bus companies. It would be infrequent and unusual that the private sector usage of these buses would violate the single-axle rear weight limitation on the Interstate system with one exception. In some cases, private sector bus companies might operate the vehicles purchased from OCTA on the Interstate highways for chartered groups or may contract out with OCTA to provide services on bus routes. Subsequently, OCTA believes that these recycled buses, owned and operated by the private sector, should be included in the scope of this study.

11. For a single agency to operate two separate types of transit buses, one designed for interstate system usage and the other designed for off system usage, would be restrictive and economically inefficient. Operational restrictions would limit the usage of the vehicle to certain routes, times, etc. Additionally, many of our routes are part on and part off of the Interstate system. The restrictions would force transit providers to purchase additional vehicles to maintain adequate spare ratios for each vehicle type. Moreover, maintaining two types of buses would require states to have more than one weight limit standard and enforcement program. In the worst case scenario, the federal single rear-axle limitation would be extended to all streets and highways to harmonize regulations, thus creating an even greater problem for public transit operators.

12. While significant weight reductions to public transit buses could be obtained with the use of carbon fiber compounds, honeycomb sandwich panels and other aerospace-type materials, the exact amount of weight savings and costs to achieve it have yet to be determined. Public transit buses constructed with these materials would be not only lighter, but as a result of less weight would achieve greater fuel economy and would emit less pollutants. It is expected that the cost of buses constructed with advanced materials will be higher than present-day conventional buses. Based upon OCTA's current budget and a cost per advanced design bus estimated at $280,000 to $300,000, there would be a reduction by approximately 20 percent in the number of buses that could be purchased for the same money.

More conclusive evidence to prove the effectiveness of advanced materials will evolve from the research results of both the Houston New Generation Bus (NGB) project and the Los Angeles County Metropolitan Transportation Agency Advanced Technology Transit Bus (ATTB) project.

13. We do not believe that granting a permanent exemption from the single-axle weight limit nor raising the limit would resolve the fundamental problem of overweight buses. Weight limits were established to protect the pavement, and by ignoring them we would be creating a new set of problems. Moreover, removing the weight limitations for public transit buses would reduce the incentive for bus manufacturers to reduce vehicle weight and update bus designs.

14. We would strongly oppose a policy which considers public transit buses with passengers nondivisible. Existing law provides that the states may issue permits for nondivisible vehicles on the Interstate system, however, state permits often have fees attached. In California, the fee for an annual permit for nondivisible overweight loads is $85.00. If OCTA were required to pay an overweight permit fee for every bus that traveled on the Interstate system to prevent CHP stops, there would be an enormous hardship on farebox returns and operational efficiencies.

Additionally, the impact of overweight vehicles with multi-trip permits on the Interstate system will cause an unknown amount of damage to the pavement. To the extent that additional funds would be used for highway maintenance and to fix the pavement, funds for other highway projects, such as High Occupancy Vehicle (HOV) lanes, would be reduced. OCTA is the leader in the nation for HOV lane mileage and is building a transitway system conducive to growing express bus routes and patronage.

15. All OCTA buses were approved by the FTA prior to purchase. FTA bus standards should be updated and phased in over a 10-year period to reflect new equipment mandates and to provide assurance to bus manufacturers that there is a market for advanced design buses. In recent years, the transit industry has been proactive in attempting to improve bus design. As mentioned earlier, two examples of studies attempting to help reduce transit bus weight are the NGB and ATTB projects. One of the goals for both projects is to produce a lighter bus with reduced emissions, improved fuel economy, and better ADA access.

16. A weight reduction program implicitly requires a major redesign of public transit buses. Clean Air Act and Americans with Disabilities requirements must be incorporated into the design of the buses, not as separate components. Removal of seats would jeopardize service levels, including special services for the disabled, and increase overall costs. By studying the bus list published in the Federal Register, many of the vehicles are over the 20,000 pound limit with just seated passengers. Lighter bus designs are necessary to reach the federal weight limit.

17. We can not provide the exact time-line and cost required to design, test, and put into production a single rear-axle public transit bus that would meet the Interstate single-axle weight limit. However, OCTA would like to propose a plan which would be phased in over a period of 10-years. Key components of the plan would include:

- Granting a permanent exemption for the existing public transit fleet and new vehicles purchased prior to 2004 from the single rear-axle weight limitation;
- Creating incentives to the bus manufacturers to develop better public transit vehicles through updated federal bus certification and procurement standards;
- Continuing to support technology development consortiums, such as the Los Angeles ATTB and the Houston NGB, and;
- Providing public transit agencies with the adequate financial means to purchase and operate the newly designed buses.

In order to ensure steady progress in reducing the weight of public transit vehicles, the FTA could phase in updated certification and procurement standards as follows: Beginning in 1999, public transit agencies would be required to purchase buses with rear-axle weights reduced to as close as possible to 20,500 pounds or lower. Upon reaching 2004, public transit agencies would be expected to purchase buses, as reasonably available, with rear-axle weights of 20,000 pounds or less.

At the end of the 10-year period (the year 2004), the FTA, public transit agencies, and bus manufacturers could review the situation to determine whether or not the 20,000 pound single rear-axle weight limit for public transit buses should be reinstated.

OCTA REVENUE LINE MILEAGE ON INTERSTATE FREEWAYS

LINES	FREEWAY	WEEKDAY DAILY	SATURDAY DAILY	SUNDAY DAILY	WEEKLY TOTAL	TOTAL ANNUAL	INTERSTATE JURISDICTIONS
1	I-5	40.5	25.2	23.4	251.1	13,029	Dana Point
51	I-5	131.1	138.0	138.0	931.5	48,597	Santa Ana, Anaheim, Orange
78	I-405	35.0			175.0	8,995	Westminster, Huntington Beach, Fountain Valley, Irvine
85	I-5	565.8	316.0	123.2	3,268.2	168,742	Dana Point, County of Orange, Mission Viejo, Lake Forest, Irvine, Tustin, Santa Ana
91	I-5	109.8	46.8	39.6	635.4	32,870	Laguna Hills, Mission Viejo, Dana Point
203	I-5	97.2			486.0	24,980	Anaheim, Orange, Santa Ana, Tustin, Irvine, Costa Mesa
	I-405	17.2			86.0	4,420	County of Orange, Lake Forest, Laguna Hills, Mission Viejo, San Juan Capistrano
205	I-5	327.6			1,638.0	84,193	Santa Ana, Tustin, Irvine, County of Orange, Lake Forest, Laguna Hills, Mission Viejo, San Juan Capistrano
211	I-405	138.4			692.0	35,569	Seal Beach, Garden Grove, Westminster, Huntington Beach, Fountain Valley, Costa Mesa, County of Orange, Irvine, Lake Forest
701	I-5	37.5			187.5	9,638	Huntington Beach, Westminster, Los Alamitos, Long
	I-405	22.2			111.0	5,705	Beach, Hawaiian Gardens, Lakewood, Carritos,
	I-605	45.0			225.0	11,565	Norwalk, Santa Fe Springs, Downey, Commerce,
	I-710	30.6			153.0	7,864	Montebello, County of Los Angeles, Los Angeles, Vernon, Bell, Bell Gardens, South Gate, Lynwood, Compton, Paramount
721	I-405	201.6			1,008.0	51,811	Seal Beach, Garden Grove, Westminster, Huntington Beach, Fountain Valley, Costa Mesa, County of Orange, Irvine, Lake Forest
722	I-405	504.0			2,520.0	129,528	Seal Beach, Garden Grove, Westminster, Huntington Beach, Fountain Valley, Costa Mesa, County of Orange, Irvine, Lake Forest
310	I-405	16.4			82.0	4,215	Huntington Beach, Westminster, Garden Grove, Seal Beach, Long Beach, Signal Hill
311A	I-405	17.0			85.0	4,369	Huntington Beach, Westminster, Fountain Valley, Costa Mesa, County of Orange
315	I-5	22.6			113.0	5,808	County of Orange, Lake Forest, Irvine, Tustin
394	I-5	8.4			42.0	2,159	Dana Point
	TOTAL	2,367.9	526.0	324.2	12,689.7	654,057.5	

**Calculations based upon September 1993 Service Change data.

§ 35553. Inapplicability of article

The provisions of this article shall not apply to any vehicle in the immediate vicinity of an unloading or loading area while actually preparing for or in the process of unloading or loading, provided any overload is incidental to and necessitated by such action; and provided that such action does not occur on a bridge or highway structure.

This section shall have no application to highways which are a part of the national system of interstate and defense highways (as referred to in subdivision (a) of Section 108 of the Federal-aid Highway Act of 1956).

Added Stats 1965 ch 537 § 3; Amended Stats 1972 ch 733 § 2.

Amendments:

1972 Amendment:Added "; and provided that such action does not occur on a bridge or highway structure" at the end of the first paragraph.

Collateral References:

Federal-aid highways: 23 USCS §§ 101 et seq.

§ 35554. Gross weight limit for bus axle

Notwithstanding the provisions of Section 35550, the gross weight on any one axle of a bus shall not exceed 20,500 pounds.

This section shall not be applicable to any highway when it would operate to prevent the state from receiving federal funds for highway purposes.

Added Stats 1975 ch 651 § 6.

Cross References:

Axle defined: § 230.

Bus defined: § 233.

§ 35555. (Effective until July 1, 1980) Cotton module mover

Notwithstanding subdivision (b) of Section 35551 and Section 35551.5, a cotton module mover, as defined in Section 35400.5, may carry a gross weight on each set of tandem axles in excess of 34,000 pounds while being operated on any county highway, unless the county board of supervisors having jurisdiction over the county highway adopts a resolution prohibiting or limiting the operation of any cotton module mover exceeding the allowable axle weight limits on that county highway or on all county highways under its jurisdiction.

This section shall be applicable only to highways within the counties of Fresno, Imperial, Kern, Kings, Madera, Merced, Riverside, San Benito, San Bernardino, and Tulare.

This section shall remain in effect only until July 1, 1980, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1980, deletes or extends such date.

Added Stats 1978 ch 590 § 1, effective September 7, 1978.

BUS INSPECTION REPORT — INITIAL INSPECTIONS ONLY — 1113 — 675

☐ BUS ☐ VAN ☐ TYPE I ☐ TYPE II ☐ SCHOOL BUS ☒ PUBLIC ☐ SCHOOL ☐ CHURCH ☐ STATION WAGON

OPERATOR (NAME AND ADDRESS)
ORANGE COUNTY TRANSIT DISTRICT
1222 ACACIA PARKWAY 92641
☐ PRIVATE ☐ PRIVATE ☐ CONTRACTOR

INSPECTION STATION (NAME AND ADDRESS)

VEHICLE INFORMATION

CHASSIS MAKE/MODEL NUMBER	BODY MAKE/MODEL NUMBER	ENGINE TYPE
RoHR	FLXible	Diesel
LICENSE NUMBER	VIN	DATE OF MFG. / AUTOMATIC TRANSMISSION
E 677583	61174	1976 ☒ ☐

A. CHASSIS MFR'S GVWR (LBS)	B. TIRE WEIGHT RATING	C. LOAD
FRONT AXLE 12000	12.5-22.5 "H"	PASSENGERS 150 lbs 7450
REAR AXLE VC 35374 Le9aC 20 500 ~~23000~~	SINGLE 7340 DUAL 6440	DRIVER 150
GROSS GVWR 32,500	4 TIRE COMBO 14680	UNLADEN WEIGHT AS BUS 24900
	U WHEELCHAIR 25760	REQUIRED VEHICLE GVW LOAD 32500
	TOTAL WEIGHT RATING 40 440	

*The gross weight (Item C) shall not exceed the manufacturer's rating (Item A) or the total tire capacity (Item B). The gross weight on any axle shall not exceed capacity (Item A) or the rated capacity of the tires on each axle (Item B).

NOTICE TO VEHICLE OPERATOR: Items marked "no" below do not comply with Vehicle and California Administrative Codes, and shall be repaired or corrected. Use reverse for remarks and explanations.

DESIGN CONSTRUCTION AND EQUIPMENT CHECKLIST

CHP PLATFORM SCALES USED TO ESTABLISH UNLADEN WEIGHT

AXLE #1 LEFT 3900 RIGHT 3850

AXLE #2 LEFT 8750 RIGHT 8400

= 24,900 UNLADEN

32,500 LBS GVWR
24,900 LBS UNLADEN
7600 LBS AVAILABLE
− 150 DRIVER
by 150 LBS = 50.6

CHP PLATFORM SCALES USED
I.D. # 85099 C
85166 C

BUS INSPECTION REPORT — INITIAL INSPECTIONS ONLY — 237993 — 3126 — 675

☐ CAR ☐ VAN ☐ TYPE I ☐ TYPE II ☐ WHEEL CHAIR ☒ TRANSIT ☐ SCHOOL ☐ COMMERCIAL ☐ FARM TRUCK

OPERATOR (NAME AND ADDRESS)
ORANGE COUNTY TRANSIT DISTRICT
1222 ACACIA PARKWAY 92641

REGISTERED OWNER (NAME AND ADDRESS)

☐ PRIVATE ☐ PRIVATE ☐ COMMERCIAL

VEHICLE INFORMATION

CHASSIS MAKE/MODEL NUMBER	CHASSIS MAKE/MODEL NUMBER	ENGINE TYPE
GMC	GMC RTS	DIESEL
LICENSE NUMBER	VIN	DATE OF INSP. / AUTOMATIC TRANSMISSION
E747697	T8H20341321	3-80 ☒ YES ☐ NO

A. CHASSIS MFR'S GVWR (LBS)	B. TIRE WEIGHT RATING	C. LOAD
FRONT AXLE 13,400	12.5 x 22.5 "H" (SINGLE/DUAL RATING PER TIRE)	DRIVER —
CUC3555T LEGAL REAR AXLE 20500	SINGLE 7340 DUAL 6440	PASSENGERS 150 lbs 5800
~~REAR AXLE 23500 MFGR~~	3 THEORETICAL 14680	DRIVER —
GROSS GVWR 33900	4 THEORETICAL 25760	UNLADEN WEIGHT OF BUS 27950
	TOTAL FORMULA RATING 40440	GROSS WEIGHT WITH LOAD 33900

*The gross weight (Item C) shall not exceed the manufacturer's rating (Item A) or the total tire capacity (Item B). The gross weight on any axle shall not exceed rated capacity (Item A) or the rated capacity of the tires on each axle (Item B).

NOTICE TO VEHICLE OPERATOR: Items marked "no" below do not comply with Vehicle and California Administrative Codes, and shall be repaired or corrected. Use reverse for remarks and explanations.

DESIGN CONSTRUCTION AND EQUIPMENT CHECKLIST

CHP PLATFORM SCALES USED TO ESTABLISH UNLADEN WEIGHT

AXLE #1 LEFT 4300 RIGHT 5150 = 9450 lbs

AXLE #2 LEFT 9650 RIGHT 8850 = 18500 lbs = 27950 UNLADEN WEIGHT

33900 lbs GVWR
27950 lbs UNLADEN
5950 AVAILABLE

÷ 150 lbs = 38.6 PASSENGERS INCLUDING DRIVER

THIS BUS DESIGNED FOR 43 SEATED PASSENGERS

CHP PLATFORM SCALES
I.D.# 850996
CEILLA

BUS INSPECTION REPORT — INITIAL INSPECTIONS ONLY — 152902 — 4149 — 675

☐ ☐ ☐ ☐ ☐ ☒ ☐ ☐ ☐

ORANGE COUNTY TRANSIT DISTRICT
1222 ACACIA AVENUE 92641

☐ PUBLIC ☐ PRIVATE ☐ CONTRACTOR

VEHICLE INFORMATION

CHASSIS MAKE/MODEL NUMBER	BODY MAKE/MODEL NUMBER	ENGINE TYPE
GILLIG	PHANTOM	Diesel

VEHICLE SYMBOLS	VIN	DATE OF MFR.	AUTOMATIC TRANSMISSION
E104127	15GCD1211J1082144	4-88	☒ YES ☐ NO

A. CHASSIS MFR'S GVWR (lbs)	B. TIRE WEIGHT RATING	C. LOAD
FRONT AXLE 14,400	12.5 - 22.5 "H" SIZE/LOAD RANGE RATING PER TIRE	FUEL
REAR AXLE 20,500 (IC 35554) / 23,000 Legal	SINGLE 7340 DUAL 6440	47 PASSENGERS @ 150 lbs 7050
	1 TANDEM/TRIDEM AXLE 14680	DRIVER
GROSS GVWR 34,900	4 TIRES PER AXLE 25760	UNLADEN WEIGHT OF BUS 27,700
	TOTAL WEIGHT RATING 40,440	GROSS WEIGHT WITH LOAD 3490

*The gross weight (Item C) shall not exceed the manufacturer's rating (Item A) or the total tire capacity (Item B). The gross weight on any axle shall not exceed rated capacity (Item A) or the rated capacity of the tires on each axle (Item B).

NOTICE TO VEHICLE OPERATOR: Items marked "no" below do not comply with Vehicle and California Administrative Codes, and shall be repaired or corrected. Use reverse for remarks and explanations.

DESIGN CONSTRUCTION AND EQUIPMENT CHECKLIST

CHP PLATFORM SCALES USED TO ESTABLISH UNLADEN WEIGHT

AXLE #1 LEFT 4800 RIGHT 4650 =

AXLE #2 LEFT 9700 RIGHT 8550

34,900 Lbs GVWR
27 700 Lbs UNLADEN
7 200 Lbs AVAILABLE DIVI

By 150 Lbs = 48 PASSENGERS

THIS BUS DESIGNED FOR 47 SEATED PASSENG

CHP PLAT FORM SCALES USED
ID # 850 99 C
85166 C

BUS INSPECTION REPORT — JURISDICTIONS ONLY | 27613 | 5039 | 675

RANGE COUNTY TRANSIT DISTRICT
322 ACACIA PARKWAY 92641

VEHICLE INFORMATION

NEW FLYER	D40	DIESEL
E343712	2FYD2DD08LH013929	11-90

A. CHASSIS MFR'S GVWR (LBS)	B. TIRE WEIGHT RATING	C. LOAD
FRONT AXLE 14,600	12.5-22.5 "H"	
VC35554 REAR AXLE 20500 / 25800	SINGLES 7340 DUAL 6440	43 PASSENGERS 150 lbs 6450
GROSS GVWR 35100	2 TYPE REAR AXLE 14680	DRIVER
	4 TIRE REAR AXLE 25760	UNLADEN (CURB) WT 28560
	TOTAL WEIGHT RATING 40440	GROSS WEIGHT WITH LOAD 35160

*The gross weight (Item C) shall not exceed the manufacturer's rating (Item A) or the total tire capacity (Item B). The gross weight on any axle shall not exceed rated capacity (Item A) or the rated capacity of the tires on each axle (Item B).

NOTICE TO VEHICLE OPERATOR: Items marked "no" below do not comply with Vehicle and California Administrative Codes, and shall be repaired or corrected. Use reverse for remarks and explanations.

DESIGN CONSTRUCTION AND EQUIPMENT CHECKLIST

CHP PLATFORM SCALES USED TO ESTABLISH UNLADEN WEIGHT

AXLE #1 LEFT 5250 RIGHT 4810 = 10060 lbs
AXLE #2 LEFT 9250 RIGHT 9250 = 18500 lbs
= 28560 UNLADEN

35100 lbs GVWR
28560 lbs. UNLADEN
6540 lbs AVAILABLE DIVIDE

BY 150 lbs = 43.6 PASSENGERS

THIS BUS DESIGNED FOR 43 SEATED PASSENGERS

CHP PLATFORM SCALES USED
I.D.# 85099C
85166C

BUS INSPECTION REPORT — ONLY — 17501 — 675

TRAILER BUS

ORANGE COUNTY TRANSIT DISTRICT
1222 ACACIA PARKWAY 92641

VEHICLE INFORMATION

CAPRE SUPERBUS	TRAILER BUS	
E 324090	VUKJDBGMD2WH23484	1987
A. EMPTY WT'S OVER (LBS)	B. TIRE WEIGHT RATING	C. LOAD
TRACTOR COMBINATION #2	255-70R. "H"	PASSENGERS 150 lbs
	SINGLE 5510 DUAL 5070	
3 18160	4 AXLE #2 TRACT 20280	
34000	4 #3 TRAILER 20280	
38260	TOTAL WEIGHT RATING 40560	

*The gross weight (Item C) shall not exceed the manufacturer's rating (Item A) or the total tire capacity (Item B). The gross weight on any axle shall not exceed capacity (Item A) or the rated capacity of the tires on such axle (Item B).

NOTICE TO VEHICLE OPERATOR: Items marked "no" below do not comply with Vehicle and California Administrative Codes, and shall be repaired or corrected. Use reverse for remarks and explanations.

DESIGN CONSTRUCTION AND EQUIPMENT CHECKLIST

CHP PLATFORM SCALES USED TO ESTABLISH UNLOADED WEIGHT

AXLE #2 TRACTOR LEFT 5000 LIGHT 5600 = 10.600 lbs

AXLE #3 TRAILER BUS LEFT 7500 RIGHT 8000 = 15500 lbs

AXLE #3 (REAR AXLE OF TRAILER BUS) UNLADEN WEIGHT WHICH
WAS ESTABLISHED BY CHP PLATFORM SCALES 15500 lbs
GROSS AXLE RATING #3 18160 MFRS. PLATE 18160 lbs

18160
− 15500
2660 AVAILABLE LOAD

EQUATES TO APPROX 18 PASSENGERS WEIGHT
DISTRIBUTED TO AXLE # 3

CHP PLATFORM SCALES
I.D.# 85099C
85166C

THIS BUS DESIGNED TO TRANSPORT
58 SEATED PASSENGERS

ATTACHMENT D.

AMENDED IN SENATE MARCH 31, 1992

Senate Joint Resolution No. 39

CHAPTERED 7-19-92

Introduced by Senator Bergeson

February 27, 1992

Senate Joint Resolution No. 39—Relative to public transit.

LEGISLATIVE COUNSEL'S DIGEST

SJR 39, as amended, Bergeson. Public transit buses: weight limits.

This measure would memorialize the President and Congress of the United States to resolve present conflicting standards and policies relating to maximum vehicle axle road limits and ~~public transit efficiency~~ *design and safety weight limits for federally funded transit vehicles.*

Fiscal committee: no.

WHEREAS, The United States Clean Air Act of 1990, the United States Intermodal Surface Transportation Efficiency Act of 1991, the California Transportation Blueprint for the 21st century, and other state and federal policies, individually and collectively, emphasize the importance of public transportation as an alternative to growing numbers of single-occupant private vehicles and their adverse effect on air quality; and

WHEREAS, The United States Department of Transportation requires the states to enforce a maximum vehicle axle weight limit established by the Federal-Aid Highway Act of 1956, and any failure by a state to adequately enforce vehicle axle weight limits may result in a reduction of federal funds authorized for allocation to the state; and

WHEREAS, The State of California has enacted statutes which establish a maximum vehicle axle weight

for trucks and passenger buses to comply with federal law and to prevent premature deterioration of highway pavement and structures; and

WHEREAS, The Federal Transit Administration approves the design of public transit buses that are purchased with federal financial assistance, including safety ratings for vehicle axles and for gross weight of the vehicle and passengers; and

WHEREAS, There are two applicable federal standards, one pertaining to the maximum weight for vehicle axles and the other pertaining to the design and safety weight limits for federally funded transit vehicles; and

WHEREAS, Public transit buses currently offered by domestic manufacturers and approved by the Federal Transit Administration, when laden with required operational and safety equipment and a full load of passengers, will be in violation of both the federal and California statutes limiting the weight on rear axles; and

WHEREAS, It is a common practice for public transit operators in California and throughout the nation to carry on busy routes full loads of seated and standing passengers within design and safety weight limits; and

WHEREAS, The California Highway Patrol has commenced enforcement of the maximum vehicle axle weight limits for public transit buses carrying full passenger loads and has, in some cases, required passengers to get off crowded and heavily loaded buses, necessitating those passengers to wait for another bus; and

WHEREAS, Achieving efficiency in transit service means that buses must operate at the highest possible passenger load, and California law penalizes, by loss of state transit assistance funds and Transportation Development Act funds, any operator that does not meet operating efficiency standards based upon the total operating cost per revenue vehicle hour and minimum recovery of operating costs through the farebox; and

WHEREAS, In order to comply with maximum vehicle axle weight limits, public transit operators in California

and throughout the nation would be required to operate additional buses and incur higher costs without carrying any additional passengers; and

WHEREAS, Public transit operators in California are currently unable to comply with maximum axle weight limit laws without incurring substantial additional operating costs and violating state efficiency and farebox recovery standards; and

WHEREAS, The protection of passengers, the preservation of highway pavement, and the safeguard of public funds through efficient transit operation are each of important public concern; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That state and federal standards and policies should encourage the availability and operation of safe and efficient public transportation to meet mobility and air quality goals; and be it further

Resolved, That the Legislature of the State of California respectfully requests the Congress of the United States and the United States Department of Transportation to address the disparity between vehicle axle weight limit standards and ~~public transit efficiency standards~~ *the design and safety weight limits for federally funded transit vehicles,* and to resolve the weight limit issues for passenger buses so public transit operators can continue to serve the maximum number of passengers, in an economically efficient manner, without jeopardizing passenger safety or the integrity of road and highway systems; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the United States Secretary of Transportation.

Before the
House Public Works and Transportation Subcommittee
on Surface Transportation

House Hearings on Truck Size and Weight H.R. 4496

Room 2167
Rayburn House Office Building
Washington, DC
June 14, 1994

Statement of Dart Transit Company
and Fleetline, Inc.

Executive Summary

A freeze on the length and weight of motor carrier vehicles is an attempt to stifle progress and will hinder innovative approaches to gaining economies and efficiencies to compete in a global market.

Problems, if they indeed exist, should be solved by such techniques as study, ingenuity, accommodation, but not an irrational ban of a contributing societal asset based on emotions or hidden business interests.

The benefits accruing to the economy and citizens through the operation of heavier and longer trucks must be weighed against the cost of an item such as pavement damage. There are also sage ways to accommodate competing interests without an absolute ban of one interest particularly in the absence of evidence of which interest is more beneficial to the economy and the citizens.

Single trailers exceeding 53 feet in length are operating safely and efficiently in a minimum of 13 states and in many instances have been doing so since the late 1970's. These vehicles are creating the opportunity for shippers to transport light and bulky freight in a more efficient and economical manner. There have not been any safety problems and, in fact, safety has been enhanced as the 57-foot semitrailers have allowed freight to move in fewer vehicles causing less highway exposure which is the single most important cause of accidents.

Responsible state officials have the ability to make sensible and informed decisions concerning size and weight issues in factual settings where the specifics as to the vehicle performance characteristics, roadway geometry, and traffic characteristics are present. Clearly this is a more sage way to address the issue than doing so in the abstract such as proposed in H.R. 4496.

A vote against H.R. 4496 is a vote for progress and recognition that citizens and legislators have the ingenuity and ability to find more sensible solutions.

Donald G. Oren
June 14, 1994

Written Testimony
of
Donald G. Oren

My name is Donald G. Oren and my business address is 800 Lone Oak Road, Eagan, Minnesota 55121. I am President and Chairman of the Board of Directors of Dart Transit Company and Fleetline, Inc., affiliated for-hire motor carriers.

On behalf of these two companies, their 350 employees, and the 1900 independent contractors we engage, I request that you vote against H.R. 4496.

The proposed legislation has a serious and basic flaw. It is a bill which is designed to stifle progress. After seeing the difficulties our steel industry and our automobile manufacturing industry suffered in the 1950's because of their failure to progress, it is difficult to conceive that there are still advocates of maintaining an economic status quo and even to retreat to what some apparently feel is a maximum feat.

With the global competition our country is facing, it is imperative that we become innovators and seek in each and every industry to create efficiencies, economies, and progressive ways to conduct business.

Those who cannot or will not approach business with this sage concept in mind and heart do not deserve legislative protection nor should our citizens be deprived of the benefits of progress by such inappropriate legislative action.

We, like all responsible citizens, are concerned about the deterioration of transportation facilities such as pavements, bridges, culverts, and shoulders and we do not deny that such deterioration is caused, in part, by truck movements. However, it must and should be recognized that freezing the load weight of trucks is not an innovative solution. Highway engineers should be seeking new ways to rehabilitate existing highways and build new highways which would accommodate heavier vehicles, just as the industry is has studied new configurations of vehicles to resolve the problem.[1] Further, the incremental cost of pavement damage must be weighed against the incremental savings and benefits which flow to shippers, receivers, consumers, and the economy from a more progressive truck service.

I am sure that many proponents and opponents of H.R. 4496 will address the weight issue in more depth and therefore I should like to focus on the length issue.

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[1]. In the late 1980's, the Transportation Research Board studied a proposal that would increase the number of axles on a vehicle and limit the weight per axle, but result in the carrier being able to increase gross weight and a reduction in highway maintenance costs. See the Turner Study, Project 20-7/27. This proposal represents a progressive way to approach the subject.

A little less than twenty years ago, there were a few motor carriers who envisioned using semitrailers 53 feet in length to transport light and bulky freight in an economical and efficient manner and to compete against the rails and their boxcar service.

We fought in the Congress to secure a grandfather clause in the Surface Transportation Assistance Act of 1982 (STAA) and in numerous state legislatures to secure 53-foot legislation. We were opposed by groups, including CRASH, who claimed the roads would crumble, safety would be compromised, and that the railroads, allegedly a more safe and efficient mode of transportation, would collapse.

In 1994, all 48 contiguous states except Rhode Island allow the use of such semitrailers and they are actually becoming, if they are not already, the standard vehicle moving truckload traffic. They have an enviable safety record and shipper and receivers are moving their light and bulky freight efficiently and economically to markets. LaVern Myers, Global Traffic Manager of Sonoco Products Company of Hartsville, South Carolina and a leader in the logistic community, has stated that the introduction of the 53-foot semitrailers was the single most important contribution in improving the efficiencies of truckload surface transportation in the second half of the century.

Now our opponents are willing to concede the use of 53-foot semitrailers, apparently because all of the dire predictions did not occur, but contend that the length should be frozen at 53 feet.

They would have you overlook the fact that in many states semitrailers up to 59.6 feet in length have been operating since the late 1970's and early 1980's. Fleetline, Inc. currently operates 400 semitrailers 57 feet in length and has done so since the mid-1980's.

This equipment can currently be operated in the states of Alabama, Arizona, Arkansas, California, Colorado, Florida, Kansas, Louisiana, New Mexico, Nevada, Oklahoma, Texas, and Wyoming. Some other states allow movements by special permit. See Appendix 1.

We are now hearing the same arguments about 57-foot semitrailers as were advanced against 53's. They are equally invalid.

Here are some basic facts to consider:

1. There is no competent evidence that trailer length or the overall length of a tractor-trailer combination creates a safety problem.[2] The three most common factors associated with truck accidents are speed, driver training, and age of the vehicle.

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[2]. Trailer length is not reported on existing accident data available to the general public. In one study, the University of Michigan Transportation Research Institute found that in 6,000 fatal accidents, the factors involved were not appreciably different from trailers in excess of 50 feet as they were from 40 - 45 foot trailers. Kenneth L. Campbell, Oliver Carsten, Robert H. Schultz, *"Truck Accident Trends of Michigan 1978-84"*, Report No. UMTRIA-86-16 Ann Arbor. The University of Michigan Research Institute, March 1986, p. 8.

2. The Federal Highway Administration in *"Truck Size and Weight"*, 49 Fed. Reg. 109 (June 5, 1984) stated:

> The factor leading to changes in the number of accidents under different scenarios (of size and weight) is the change in vehicle miles traveled by various types of commercial motor vehicles as a result of changes in permissible size and weight on the several federal-aid highway systems.

The Insurance Institute for Highway Safety also concluded that tractor trailer crash experience parallels their exposure on the road. L.W. Stein and I.S. Jones, *"Crash Involvement of Large Trucks by Configuration: A Case-Control Study"*, (1987).

The 57-foot semitrailer enhances safety in this respect. One manufacturer of paper articles, for example, indicated that it could save one trip for every 8 loads it shipped. A metal container manufacturer in Mississippi indicated it could eliminate 162 movements annually by using 57-foot semitrailers rather than 53's.

3. The length of the semitrailer also does not necessarily determine the length of the vehicle on the road. See Appendix 2. A 57-foot semitrailer in combination with a cabover tractor[3] would be approximately 68 feet in overall length. A 48-foot semitrailer in combination with a conventional tractor would also be 68 feet in overall length.

4. Likewise, the fear some persons or entities engender about passing these vehicles really is not supportable in fact. If the same size tractors are utilized, it would take .33 seconds more to pass a 57-foot combination than a 53-foot combination assuming a ten-mile speed differential. This constitutes the approximate time it would take a nickel to fall from a store counter to the floor.

5. The ability of a vehicle to make turns and handle intersections is controlled by a vehicle's turning radius and offtracking which is governed by the distance between the connecting point of the tractor and the trailer (the kingpin) to the real axle of the trailer. If this distance is kept constant, a 48-foot , 53-foot, and 57-foot trailer will operate the same.

6. Any issue about undercarriage or overhang exposure is dissipated by the use of the "Michigan" bumper, which extends lower to the ground and to the sides of

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[3]. Cabover tractors are normally used with such semitrailers to meet overall length limits on some state highways. The federal government has forbidden overall length limits on the Interstate and Designated Highway System as an unnecessary safety consideration.

the trailer. The bumper is the standard bumper on most vehicles manufactured in the late 1980's and 1990's.

7. Weight is also not a problem with 57-foot semitrailers. This equipment is designed and used to haul light and bulky freight and it is not unusual to have truck loads weighing less than 5,000 pounds. The average weight of 57-foot semitrailers reported by five Mississippi shippers was 28,000, 27,500, 24,000, 15,000 and 7,000 pounds, which is well below the current weight limits of the various states.

8. These important facts should not be overlooked: (a) 57-foot semitrailers have been used for over 15 years and there have been no complaints about safety or operational problems from shippers, carriers, insurers, or regulatory bodies and (b) leading and responsible manufacturing companies, despite the threat of product liability, have produced them and responsible motor carriers with the equal threat of personal liability, have operated them.

9. Finally, the motor carrier and rail industry are operating at peak capacity and the shortage of qualified drivers precludes more vehicles being made available to desperate shippers. This appears to be a long term trend and thus it is imperative that the most efficient equipment, like the 57's, be available to help alleviate the problem.

Attached to this statement as Appendix 3 is a list of some of the responsible and progressive shippers who supported the use of 57-foot semitrailers in recent legislative efforts and who recognize the efficiencies and economics which can result and which can be translated into lower costs to the consumer or help the company sustain their operations in this era of global competition. See Appendix 4.

To enact H.R. 4496 would be a step backwards. There should not be an absolute freeze on size and weight.

It is felt that responsible state officials when presented with factual situations which are specific as to the handling and performance characteristics of the vehicle, roadway geometry, and the traffic characteristics will be able to make a sensible and informed decision as to the use of the roadway.

Please vote against H.R. 4496.

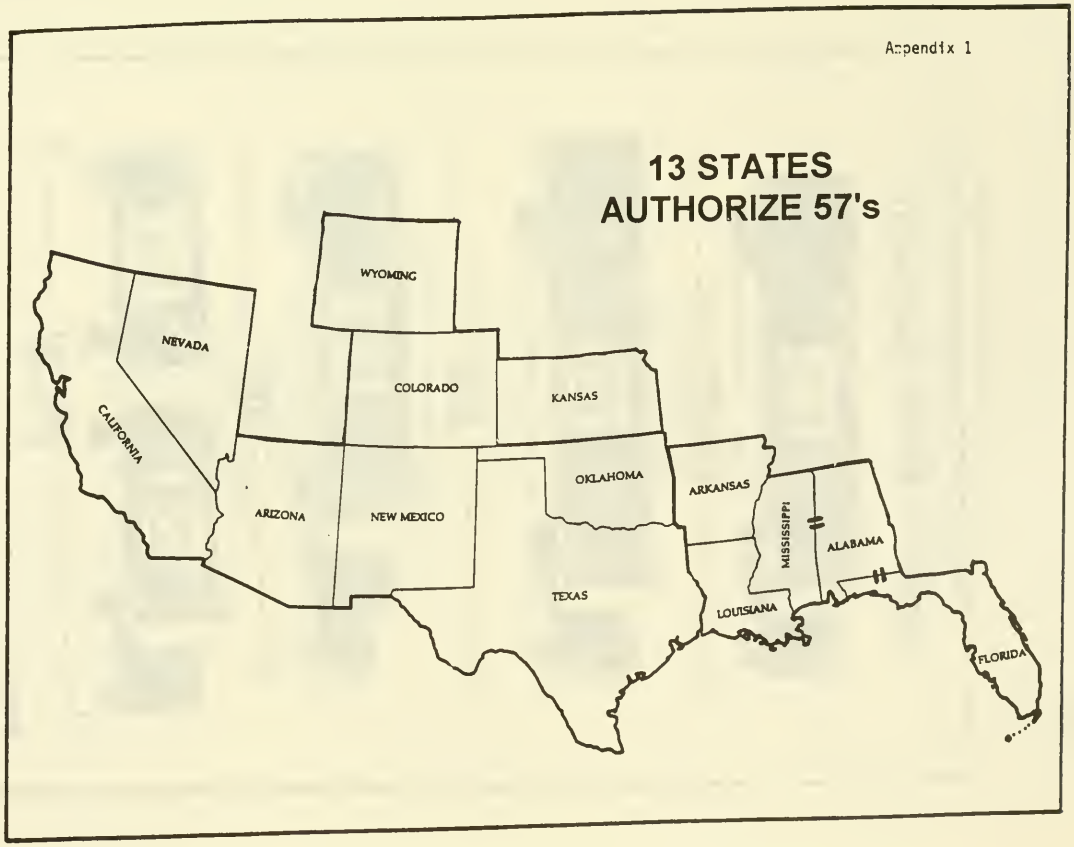
Respectfully,

_____

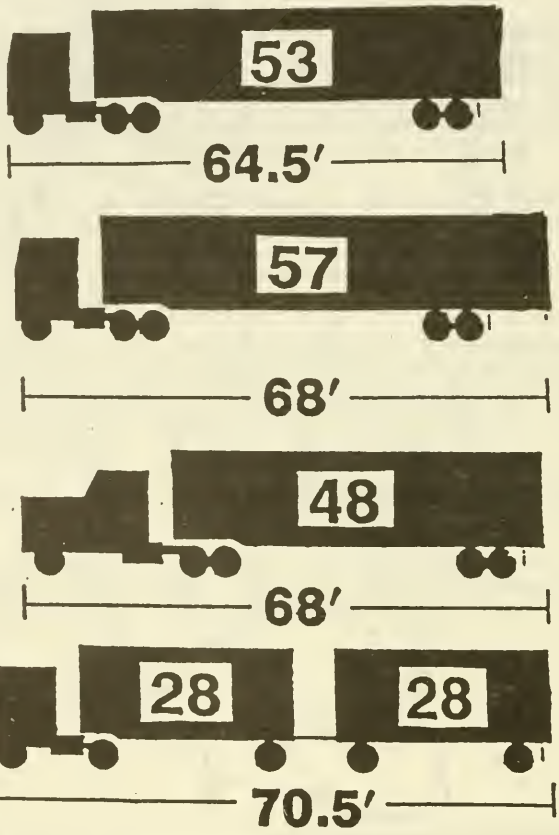
Donald G. Oren

HR4496TEST.4po
cc: File

Appendix 1


13 STATES
AUTHORIZE 57's
WYOMING
NEVADA
CALIFORNIA
COLORADO
KANSAS
OKLAHOMA
ARKANSAS
ARIZONA
NEW MEXICO
TEXAS
MISSISSIPPI
ALABAMA
LOUISIANA
FLORIDA

Bigger or Better Configured?



Source:

The dimensions shown are the common configurations of the vehicles shown and reflect the actual dimensions of units operated by carriers

REPRESENTATIVE SHIPPERS UTILIZING AND/OR SUPPORTING USE OF 57-FOOT SEMITRAILERS

American National Can Co.
Anchor Glass Container
Ball Corporation
Container Corporation of America
Continental Pet Technology
Conwed Corporation
Crown Cork & Seal
Franklin Corporation
Frito-Lay, Inc.
General Electric
Genpak Corp.
Georgia Pacific Corporation
International Paper Co.
James River Corp.
Jefferson Smurfit Companies
Johnson Controls, Inc.
Mahasco Upholstered Furniture
Montgomery Ward
Proctor & Gamble
Reynolds Metals Co.
Rheen Manufacturing Co.
St. Joes Container
Scott Paper Co.
Sonoco Products Company
Stone Container
Union Camp Corporation
Weyerhaeuser
Williamette Industry

EXSUMM57.C
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45' - 57' SEMITRAILERS

SHIPPING COST COMPUTED BY CUBIC FOOT

Equipment	Gross Cubic Feet	COST PER CUBIC FOOT (in dollars)																		
		450	500	550	600	625	650	675	700	725	750	775	800	825	850	875	900	925	950	975
45'x 96"	3120	.144	.160	.176	.192	.200	.208	.216	.224	.232	.240	.248	.256	.264	.272	.280	.289	.297	.305	.313
48'x 96"	3350	.134	.149	.164	.179	.187	.194	.202	.209	.216	.224	.231	.239	.246	.254	.261	.269	.276	.284	.291
48'x 102"	3550	.127	.141	.155	.169	.176	.183	.190	.197	.204	.211	.218	.225	.232	.239	.247	.254	.261	.268	.275
48'x 102"*	3734	.121	.134	.147	.161	.167	.174	.181	.188	.194	.201	.208	.214	.221	.228	.234	.241	.248	.254	.261
50'x 102"	3880	.116	.129	.142	.155	.161	.168	.174	.180	.187	.193	.199	.206	.213	.219	.226	.232	.238	.245	.251
53'x 102"	4062	.111	.123	.135	.148	.154	.160	.166	.172	.179	.185	.191	.197	.203	.209	.215	.222	.228	.234	.240
53'x 102"*	4127	.109	.121	.133	.145	.151	.158	.164	.170	.176	.182	.188	.194	.200	.206	.212	.218	.224	.230	.236
57'x 102"*	4359	.103	.114	.126	.138	.143	.149	.155	.161	.166	.172	.180	.184	.189	.195	.201	.206	.212	.218	.224

* Trailer sizes in Dart Transit/Fleetline, Inc. fleet.

2/92

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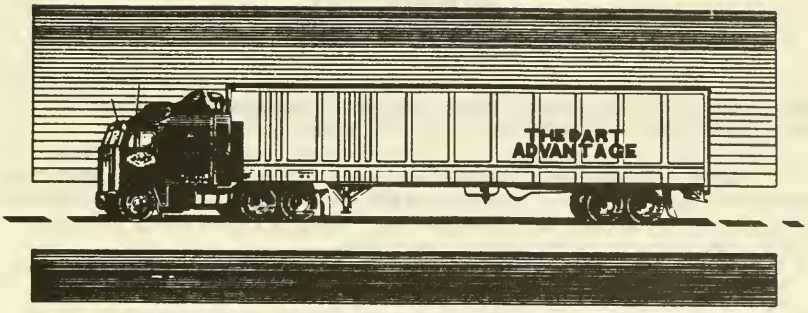


TRUCK SIZE & WEIGHT AND SAFETY

A discussion of key factors bearing on the issue of whether federal legislation should be enacted to limit the length of single semitrailers to 53 feet in length on the National Highway System.

Prepared For
Dart Transit Company
Fleetline, Inc.
By: James C. Hardman
Their Vice President, Administration
& General Counsel
June 10, 1994

INTRODUCTION

It is undeniable that our country is becoming more dependent on motor carriage to move goods to market and as a linkage between the terminals of other transportation modes. In virtually every state, trucks carried over 70 percent of all freight moved in 1991.

Similarly, as roads have improved and new vehicle technology has developed, shippers and carriers have worked together to utilize the most efficient and economical equipment possible. In many instances this has involved increasing the weight hauling capacity of vehicles and/or the volume of the product shipped by enlarging cube capacity.

The most pronounced expansion came as a result of the building of the Interstate and Designated Highway System and the development of semitrailers 53 feet in length.

Size, however, brought fear. Fear that somehow safety was directly related to vehicle size or weight. Many used "fear" as a means of slowing the competition created by progress. Many made assumptions which had no factual basis or which were based on faulty or misleading data.

It is hoped that this booklet will be helpful in reviewing the concept of truck size as it relates to safety.[1]

Your comments and suggestions are welcomed.

DART TRANSIT COMPANY
FLEETLINE, INC.
P.O. Box 64110
St. Paul, MN 55164-0110
612/688-2000

[1]. This paper will be limited to semitrailers as opposed to multiple units configurations commonly referred to as CVs which have different engineering dynamics.

Miscellaneous Facts About Safety

1. The quality and relevance of truck safety and accident data is generally poor and of inconsistent quality. Often only absolute numbers and inadequately documented assertions about truck safety issues are found.

2. Uniformity of Data. You must be sure the researcher is comparing similar data. For example, the federal government data does not require all motor carriers to report accidents and exposure data. Intrastate and certain other carriers are exempt from federal reporting requirements. Thus, when a state claims that it has a poorer record than the national average or another state, it may be that different statistical bases are being compared.

3. In respect to property damage-only-accidents, the inflation of the dollar over the period involved may have produced a decreasing reporting threshold. Until January 1, 1986, accidents causing damage of $2,000 or more had to be reported to the Federal Bureau of Motor Carrier Safety (BMCS). Thus, the absolute number of accidents reported in 1986 compared to 1976, for example, could have increased because of inflation, whereas the actual number of all such accidents may have decreased or remained constant. The government recognized the influence of inflation when it changed the reported threshold to $4000 as of January 1, 1986.

4. The absolute number of accidents is also misleading unless related to the number of miles of operations. For example, a total of 10 accidents may occur in 100,000 miles traveled, whereas, 15 accidents may occur in 200,000 miles traveled. If you were to merely say that accidents increased 50%, it would be misleading.

5. Trailer length is not reported on existing accident data available to the general public. The University of Michigan Transportation Research Institute has maintained some data. Information on over 6,000 semitrailers involved in fatal accidents in a four year period (1980-1983) was

studied. Only 27 of these accidents, or 0.4%, involved semitrailers longer than 50 feet and only an additional 34 semitrailers were in excess of 48 feet. The causes for the accidents were studied and it was concluded that the factors were not appreciably different for the longer trailers as compared to 40-45 foot trailers. (Kenneth L. Campbell, Oliver Carsten, Robert H. Schultz, "Truck Accident Trends of Michigan 1978-84", Report No. UMTRI-86-16. Ann Arbor: The University of Michigan Research Institute, March 1986., p.8.)

Attachment 1 reflects the distribution of accidents by trailer length. Also, one should note that the trailers were of all types. Only 2 of the 27 mentioned above were van trailers. Some 10 of the 27 trailers involved "other" types of trailers which are normally operating at this time on overlength permits or by special statutory permit such as pole trailers used in logging.

6. Seven of the largest operators of 53-foot semitrailers reviewed their files for a two year period (1985-86) and the reportable accidents per 1,000,000 miles they experienced with 53-foot semitrailers were less than the total accidents per one million miles they experienced with all vehicles and significantly less than the national accident rate for heavy trucks.

Attachment 2 reflects the data and Attachment 3 reflects the composite data in Chart form.

While the above data involves 53-foot semitrailers, carriers operating 57-foot semitrailers have also reported that they have not experienced safety problems with 57's.

7. Accidents usually occur as a result of a sequence of events, often initiated by a single occurrence that is complicated by a number of interacting factors. It is generally accepted that the three most common factors associated with heavy vehicle accidents are (a) speed too fast for conditions; (2) level of training of the driver; and (3) age of vehicle. None of these factors are related per se to trailer length.

8. The Insurance Institute for Highway Safety concluded that tractor trailer crash experience parallels their exposure on the road. Stein, H.W. and I.S. Jones, "Crash Involvement of Large Trucks By Configuration: A Case-Control Study". Insurance Institute For Highway Safety, Washington, DC (1987).

This is constant with the findings of the Federal Highway Administration, which in "Truck Size and Weight", 49 Fed Reg 109 (June 5, 1984) states:

> The factor leading to changes in the number of accidents under different scenarios (of size and weight) is the change in vehicle miles traveled by various types of commercial motor vehicles as a result of changes in permissible size and weight on the several federal-aid highway systems.

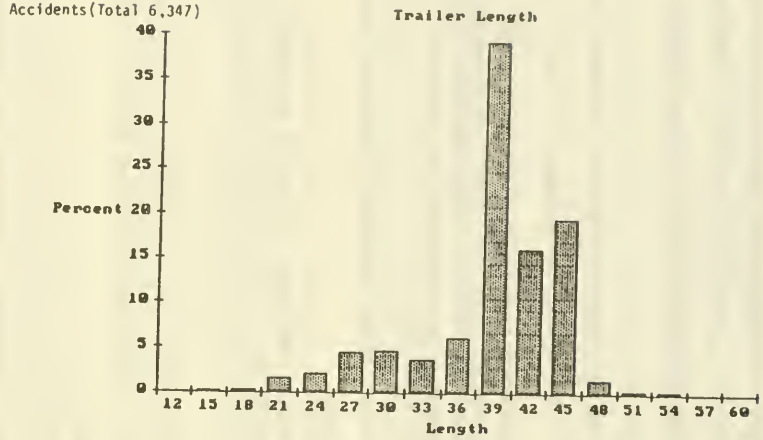
Obviously, if the use of 57-foot trailers leads to fewer vehicle miles traveled, the number of accidents should decrease.

A leading Mississippi manufacturer, for example, has stated it could eliminate 700 highway movements and approximately 178,500 miles of travel annually in the State by using 57's.

9. The use of the word "trucks" can also be misleading. It can include all types of vehicles from a pickup used by an individual to commute to and from work or the grocery store to the large triple combinations.

The number of accidents on an absolute number basis actually is greater in terms of trucks other than those involving a combination of a tractor and trailer which weigh in excess of 26,000 pounds. See Attachment 4.

SAFETYDATA C



Source: Campbell, Carsten, Schultz, "Truck Accident Trends in Michigan, 1978-84"(UMTRI, April 1986)

ATTACHMENT 2

Carrier	Year	Total Trucks in Fleet	Total 53' Trailers	Total Fleet Miles	Total Miles w/53' Trailers	% Fleet w/53' Trailers	DOT Reportable Accidents	Accidents per 1,000,000	DOT Accidents w/53' Trailers	53 Trailer Acc per 1,000,000	% Accidents 53' Trailers
Wayne Dunlap Truck Ft. Vernon, PA	85	214	57	18731000	6555150	35	25	1.33	6	0.91	24
	86	165	57	14600000	7470000	45	11	0.66	5	0.67	45
Dart Transit Company St. Paul, MN	85	1569	426	58396983	15767166	27	30	51	6	0.1	20
	86	1750	750	68317869	25956884	45	24	0.4	10	0.39	42
National Freight Vineland, N.J.	85	3703	237	92887000	7110000	7.6	82	1.26	9	1.27	11
	86	4000	412	101630000	10300000	10.1	99	0.87	1	0.1	1
Schneider National Green Bay, WI	85	8921	0	480571000	0	0	711	1.0	0	0/6	0/6
	86	9115	305	616279000	8925000	2	406	0.98	1	0.1	0.4
Fil-Mor Express Carmen Falls, MN	85	97	97	4998000	4998000	100	8	1.6	8	1.6	100
	86	140	140	5762000	5762000	100	3	0.52	3	0.52	100
Allpoints Distribution Oak Brook, IL	85	548	108	14691000	4916360	34	22	0.44	0	0	0
	86	465	166	19455000	7395611	38	13	0.18	3	0.41	0
Frito-Lay, Inc. Dallas, TX	85	1650	35	66721000	1505000	2.2	49	0.73	0	0	0
	86	1650	210	66722000	9030000	13.5	23	0.34	0	0	0
Totals	85	16694	952	656995903	40922376	6.2	927	1.4	29	0.71	3
	86	17285	2038	686735869	74817995	11	569	0.82	23	0.31	4
GRAND TOTALS				1348731772	115739669	9	1496	1.1	52	0.51	3.18

NATIONAL AVERAGE: 3.32 Accidents per million vehicle miles. Transportation Research Board Spec. Report 211.

ATTACHMENT 3

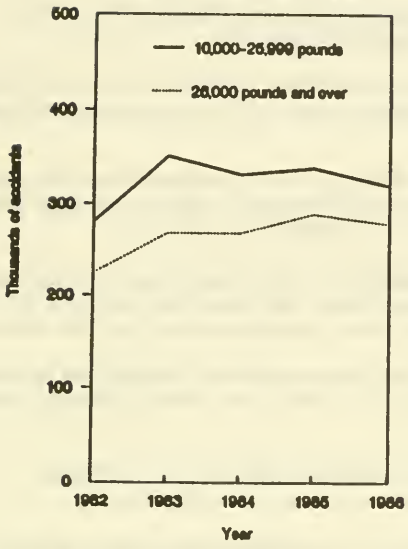
Composite Figures
Seven Large Carriers Operating
53-Foot Semitrailers
1985 - 1986

Category of Equipment	Number of Accidents			Number of Accidents Per Million Miles		
	1985	1986	Two Years	1985	1986	Two Years Aver.
All Trailers	927	569	1496	1.4	0.82	1.1
53-Foot Semitrailers	29	23	52	0.71	0.31	0.51

NOTE: National Average per Transportation Research Board Spec. Report 211 - 3.32 Accidents Per Million Miles.

ATTACHMENT 4

Figure 1-2.- Heavy Truck Accidents



SOURCE: Office of Technology Assessment, based on National Accident Sampling System data.

Offtracking and Maneuverability

The maneuverability of a vehicle on a highway is most commonly assessed by examining offtracking. Offtracking is defined as the difference between the paths of the front and rear wheels of a vehicle as it negotiates a turn.

Mathematical formulas for estimating offtracking were developed by the Society of Automobile Engineers and the Western Highway Institute in 1960.

The Western Highway Institute is a highly respected organization in the transportation industry. It is responsible for much of the research conducted in respect to motor vehicle size and weight standards.

The retired Chief Engineer for the Institute who was a participant in developing a study on "Offtracking Characteristics of Trucks and Truck Combinations" appeared as an expert witness in a lawsuit where the safety of the fifty-three foot semitrailers was put in issue.

We have included the affidavit which Thurman Sherard filed in that cause which sets forth the basic concepts of offtracking and maneuverability. Basically at issue was whether 53-foot semitrailer combinations exceeding 60 feet in length would degrade safety and traffic operations.

The decision of the court on the safety issue is also included. We agree that the safety issue is one addressed by the distance between articulation points or the kingpin setting and not semitrailer or combination length.[1]

Thus, if the kingpin setting on a tractor-57-foot semitrailer is set at 41 feet, the combination will track and maneuver equivalent to 48 or 53 foot semitrailers.

It is frequently argued that maintaining a 41-foot kingpin setting requires that the rear axle of the trailers must be moved forward thereby creating a safety hazard, i.e., a car would run under the trailer.

This could essentially occur with any size semitrailer as the rear axle is moved forward on the semitrailer for a number of reasons including weight distribution and maneuverability.

The major manufacturers of 57-foot semitrailers have addressed the problem and for the past two to three years have used "Michigan bumpers" which are a rear end bumper which extends 22 inches to the ground and to within four inches of the semitrailer sides. This is the same bumper which the National Highway Traffic Safety Administration is considering as a requirement on all semitrailers.

---

1. The Transportation Research Board in its most recent study, "Providing Access For Large Trucks", Special Report 223 (1988) states that a 41-foot "kingpin" setting "....makes the maneuverability of the longer STAA semitrailers [53-foot] equivalent to that of the 48-foot semitrailer with its rear trailer axle or axles in the farthest back position, and nearly equivalent to the pre-STAA 45-foot semitrailer, for a range of highway geometric conditions." pp. 204-205.

Responsible motor carriers have also retrofitted older semitrailers to meet the above requirements.

The question of underride danger is not real and in any case is not peculiar to the length of the semitrailer.

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

NATIONAL FREIGHT, INC., a New Jersey corporation, DART TRANSIT COMPANY a Minnesota corporation, OWENS-ILLINOIS INC., an Ohio corporation, and CONTINENTAL CAN COMPANY, INC., a Delaware corporation,	-	Civil No. CV-83-1733
Plaintiffs,	-	
vs.	-	
THOMAS D. LARSON, Secretary of Transportation, COL. DANIEL F. DUNN, Commissioner of State Police, LeROY S. ZIMMERMAN, Attorney General, and HON. RICHARD THORNBURGH, Governor,	-	Judge Herman
Defendants.	-	

AFFIDAVIT

STATE OF CALIFORNIA)
) ss.
COUNTY OF CONTRA COSTA)

THURMAN SHERARD, being first duly sworn on oath deposes and says that:

1. I am a professional engineer, registered in the State of Wyoming and a registered civil engineer in the State of Alaska. Attached hereto is my resume as of July 1, 1978. Since that date, I have retired as Chief Engineer for the Western Highway Institute.

2. During my tenure with the Western Highway Institute, I was involved in extensive research and analysis of the maneuvering characteristics and safety of large vehicle combinations.

3. During the course of my employment as Chief of Engineering for the Western Highway Institute, I was subpoenaed to appear in, and was accepted as, an expert witness on the subject of off-tracking in the cases of Raymond Motor Transportation, Inc. v. Rice, 434 U.S. 429 (1978); Kassel v. Consolidated Freightways Corporation of Delaware, 450 U.S. 662 (1981), and Consolidated Freightways Corporation of Delaware v. Larson, Case No. CA-81-1230(MDPA. filed October 27, 1981, dismissed as moot, 1984).

4. While Chief Engineer for the Western Highway Institute I participated in the development, research, editing and publication of the Western Highway Institute's Research Committee Report #3 entitled "Off Tracking Characteristics of Trucks and Truck Combinations," (February, 1970).

5. Subsequent to publication of that research, it became the basis of the SAE Recommended Practice entitled "Turning Ability and Off Tracking - Motor Vehicles - J695b."

6. As a result of my professional study, research, and analysis of the maneuvering characteristics of large commercial vehicles, I am thoroughly familiar with the off-tracking characteristics of various large combination vehicles, their

compatibility with other traffic, the adequacy of the highway physical plant to accommodate such vehicles, and their effect on highway safety.

7. Attached hereto as Exhibit 2 are definitions excerpted from "Off Tracking Characteristics of Trucks and Truck Combinations." These definitions represent the generally accepted engineering definitions of the terms indicated.

8. Attached hereto as Exhibit 3 is Figure 7 from SAE J697b indicating a typical off-tracking situation and showing by reference the meaning of these various terms.

9. In addition to the terms defined in Exhibits 2 and 3, the term trailer sweep is sometimes used to refer to the width of the path covered by the turning vehicle, or alternatively, the outward swing of that portion of the trailer behind the rear axles.

10. Because trailer sweep is largely offset by off-tracking in the opposite direction, it is not normally considered a significant factor in the maneuverability of such vehicles and, therefore, has not been included in any of the off-tracking standards published by the Western Highway Institute.

11. In preparing this affidavit I have reviewed the stipulation of parties in this action filed January 23, 1984, with respect to the description of the vehicles involved, and the affidavit of James Doughty, signed April 23, 1984, in support of defendants' motion to stay.

12. In discussing off-tracking, it must be first understood that the overall length of the combination vehicle does not determine the off-tracking characteristics of that vehicle.

13. Off-tracking, turning radius and trailer sweep characteristics are governed by the axle intervals and the hitch distances, or more simply put, the distance between articulation points. See SAE J695b "Turning Ability and Off Tracking - Motor Vehicles."

14. The distance between the king pin and rear axle is normally the critical factor in the off-tracking of a semi because it is the longest distance between articulation points.

15. This can easily be seen by reference to the generally accepted off-tracking formula developed by WHI which is based on the "sum-of-the-squares" of the distances between articulation points. The fact that the trailer wheel base is several times larger than tractor wheel base makes the trailer wheel base the principal determining factor when the wheel bases are squared and summed to determine off-tracking.

16. Changes in tractor wheel base do not have a significant affect on turning radius or overall off-tracking of vehicle.

17. Some sixty (60) foot semi combinations can exhibit worse off tracking maneuvering characteristics than the combinations employing National Freight, Inc.'s 53 foot trailers.

18. For example, moving vans because of their low volume and low swung trailer bodies typically place the rear axles to

the very rear of the trailer thereby maximizing the king pin rear axel distance. A moving van with such a configuration, having a 60 foot overall length and a 48 foot trailer would exhibit more off-tracking, less maneuverability and require a larger turning radius than a combination vehicle made of National's trailer and the same tractor, even though the combination employing the 53 foot trailer would have a longer overall length.

19. In reviewing the affidavit of James Robert Doughty, P.E., it is apparent that Mr. Doughty has erroneously equated the overall length of a combination vehicle to its off-tracking and maneuverability characteristics.

20. The effects which James Doughty expresses concern about in his affidavit, however, relate to the off-tracking and maneuvering characteristics of the vehicle combinations and not to their overall length.

21. The use of an overall length limit to regulate for the problems cited by James Doughty in his affidavit is not particularly effective since those concerns relate directly to maneuverability, turning radius, and off-tracking, none of which are directly determined by the overall length of the vehicle combination.

22. A number of states, both prior to and subsequent to passage of the Surface Transportation Assistanct Act, have regulated off-tracking by imposing kingpin to rear axle length limits.

23. Sixty-five (65) to 70 foot semi-trailers, twin trailers and auto carriers have been allowed in the western states for many years with no apparent safety problems due to their overall length, though many western states regulate kingpin to rear axle distance.

Dated this _____ day of May, 1984.

_____
Thurman Sherard

Subscribed and sworn to before me
this _____ day of May, 1984.

_____

Notary Public
State of California
My Commission is/expires:_____

July 1, 1978

T. D. "THURM" SHERARD, P.E.
Director of Research
Western Highway Institute

Mr. Sherard has devoted his entire career to highway or highway related work.

A holder of the 25-year meritorious service award of the American Association of State Highway Officials, he has served as Deputy State Highway Engineer in Wyoming and was the first State Highway Engineer for Alaska.

Prior to his appointment in 1965 as Chief Highway Engineer for Western Highway Institute, he was Chief Highway Engineer for the International Engineering Company, a subsidiary of Morrison-Knudsen, assigned mostly to highway and transportation projects in Central and South America.

His work with Western Highway Institute has been most closely related to research in the field of sizes and weights, the suppression of truck splash and spray, and the operational safety of trucks and truck combinations. He is widely recognized for his work on the operational characteristics of longer combinations, including safety, productivity and their effects on highway pavements and bridges.

Sherard is active in the Motor Transportation Conference of the National Safety Council as a member of its Technical Committee, its Commercial Vehicle Section and its Committee on Winter Driving Hazards. He has served as an advisor on Transportation Research Board studies relating to the safety and operational effects of trucks and truck combinations. He also is an advisor to the Joint Committee of the Western Association of State Highway Officials and the Highway Transport Industry.

Sherard belongs to two professional societies, the Society of Automotive Engineers and the National Society of Professional Engineers. He has written several technical papers published by the Society of Automotive Engineers.

He is a registered civil engineer in Alaska and a registered professional engineer and land surveyor in Wyoming.

Sherard E-1

Definitions

Offtracking is defined, for the purposes of this report, as the difference in radii from the turning center to the vehicle center at the leading axle and at the rearmost axle, during negotiation of a turn. Actually, offtracking may occur when a vehicle is not in process of making a turn, and thus may more generally be described as the amount of variation between the path traversed by a following wheel as compared to the path of the preceding wheel. No matter what variations in wording may be found in definitions of offtracking used in earlier studies, the thing being defined is unmistakably the same in each. In illustration of this point the following definitions are quoted:

1. "In general, offtracking is defined as the difference in the path of the first inside front wheel and of the last inside rear wheel as a vehicle negotiates a curve."
   - "Scale Model Investigations of Off-tracking of Trailer Trains, Frederick Jindra, SAE Report 607A, National Transportation Meetings, 10-29 to 11-2-62.
2. "Off-tracking is the difference in the path of the inside front wheel and of the inside rear wheel as a vehicle or combination vehicle negotiates a curve."
   - "Determination of Oversized Vehicle Tracking Patterns by Adjustable Scale Model," Devere M. Foxworth, proceedings 39th annual meeting, Highway Research Board, Washington, D.C., 1960, page 479.
3. "The difference in radii from the turning center to the vehicle centerline at the foremost and at the rearmost axles of a vehicle or combination is called offtracking."
   - "Maximum Desirable Dimensions and Weights of Vehicles Operated on the Federal-aid Systems," 88th Congress, 2nd Session, House Document No. 354, Washington, D.C., 1964.
4. "Offtracking is the difference in radii from the turning center to the vehicle centerline at the foremost and rearmost axles of a vehicle or combination and represents the increase beyond the tangent track occasioned by a turn."
   - SAE Handbook, 1964, page 877.
5. "Offtracking is the path of the outside of the outer tire on a rear or trailing axle that deviates inward toward the center of a turn from the circular path of the outside of the outer front tire, while the vehicle or trailer combination is making a turn."
   - "Offtracking Calculations for Trailer Combinations," Stevens, Tignor and LaJacono, Public Roads, Vol. 34, No. 4, October, 1966.

Figure 1 is an illustration of a short wheelbase vehicle attaining its maximum offtrack in the first quadrant of a turning maneuver, but is made a part of these offtracking definitions to demonstrate that despite variations in their wording all five definitions refer to precisely equivalent values. The figures opposite the braces correspond to the numerical identification of the definitions shown above. All three distances are the same, the apparent differences in the definitions being merely variations in reference points between which to measure the amount of offtracking.

Other terms used in the course of this report are defined as follows:

Ackerman steering consists of a three-piece articulated axle with two front wheels that are mounted on short stub axles. The stub axles are attached to opposite ends of the rigid center section of the front axle by the front axle kingpins. The short stub axles are pivoted about the axle kingpins by steering arms and mechanisms connected to the driver's steering wheel.

Angle of Turn is the angle through which a vehicle travels in making a turn.

Axle designates either a single axle or the centerline between tandem axles.

Crramp angle is the limit of the turning ability of the front wheels of an Ackerman-type front axle and is limited by the construction of mechanical parts around the front-axle, kingpin-pivot mechanisms.

Kingpin has two different meanings in automotive design, the precise meaning being determined by the context in which the term is used. A kingpin of a front axle of a power vehicle is a vertical or near vertical shaft connecting each stub axle that carries a front

EXHIBIT 2

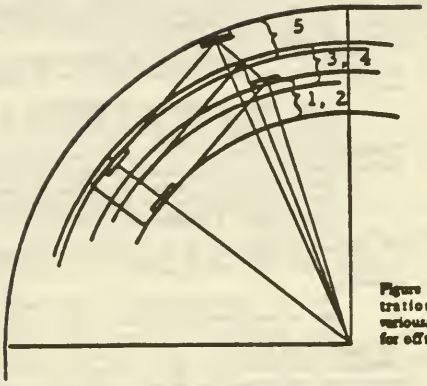


Figure 1. – Diagram to illustration of equivalence of variously worded definitions for offtracking.

wheel of a power vehicle to the rigid center of an Ackerman-type front axle. All Ackerman-type front axles have two kingpins, one at each end of the front axle.

A kingpin of a trailer is a vertical pivot shaft attached near the front of and on the centerline of the underside of a trailer chassis. It engages a fifth wheel on a towing tractor, a trailer converter dolly, or is permanently connected to the center of an undetachable front axle of a full trailer. A trailer is pulled by and pivots around its kingpin.

Negative offtracking occurs during a turn in which the radius of the path of the outer rear corner of a vehicle becomes longer than the radius of the turning path of the outside of the vehicle's outer rear tire. It is caused by rear overhang which is the distance from the centerline of a vehicle's rear axle to the pintle hook, or by the use of stinger-steering which increases the distance from the rear axle of a leading vehicle to the point of articulation.

Overall length of a vehicle or trailer combination is the distance between the front bumper of the power vehicle and the rear bumper or guard on the rear vehicle.

Pintle hook is a vertical hook device attached to the rear of a truck or to the rear of a leading semitrailer in a double or triple trailer combination. It engages the towing eye at the front end of the towbar of a trailer converter dolly or the towbar of a full trailer front-axle assembly.

Towbar (drawbar) is a bar or a V-shaped assembly of two bars, attached to the chassis of a trailer converter dolly or to the undetachable front axle assembly of a full trailer, constructed so that it has a towing eye at its forward end and exerts a pulling force in the middle of and at 90 degrees to the axle of the towed vehicle.

Turning path is the path of a designated point on a vehicle making a turn.

Turning radius is the radius of the circular turning path of the outer front tire from the turning radius center.

Turning radius center is the point that is the center of the circular turning path followed by the outside of the outer front tire of the foremost axle of the vehicle or combination.

Turning track width is the radial distance between the turning paths of the outer front tire and the outside of the rear tire nearest the center of the turn.

Wheelbase –

- of a single-unit power vehicle is the distance between the centerline of the front axle and the centerline of the rear axle;
- of semitrailers and trailers is the distance between the trailer kingpin and the centerline of the rear axle;
- of trailer converter dollies is the distance between the center of the towing eye of the towbar and the centerline of the dolly's axle.

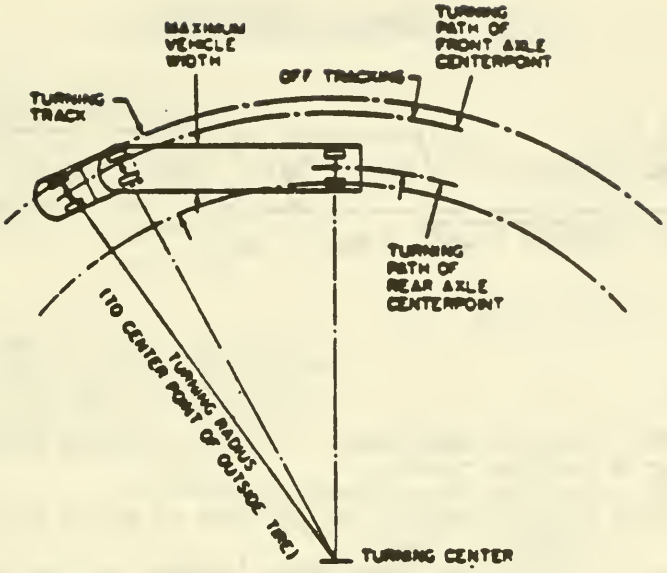


FIG. 7—TYPICAL OFF TRACKING SITUATION

EXHIBIT 3

Formula (SAE J695)

$$\text{Maximum offtrack} = \sqrt{WB^2 + \left(\sqrt{tr^2 - WB^2} - ht\right)^2} - \sqrt{KO^2 + \left(\sqrt{tr^2 - WB^2} - ht\right)^2 - ka^2}$$

Where:

WB = tractor wheelbase
tr = turning radius
ht = half of front wheel track
KO = kingpin offset, in advance of drive axle or center of tandem
ka = semitrailer wheelbase, kingpin to rear axle or center of tandem

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NATIONAL FREIGHT, INC., a New Jersey corporation; DART TRANSIT COMPANY, a Minnesota corporation; OWENS - ILLINOIS, INC., an Ohio corporation; and CONTINENTAL CAN COMPANY, INC., a Delaware corporation,

Plaintiffs

vs.

THOMAS D. LARSON, Secretary of Transportation; COL. DANIEL F. DUNN, Commissioner of State Police; LEROY S. ZIMMERMAN, Attorney General; and HON. RICHARD THORNBURGH, Governor,

Defendants

FILED
HARRISBURG, PA.
JUN 4 1984
DONALD R. BERRY, CLERK
PER _____ DEPUTY CLERK

CIVIL ACTION NO. 83-1733

MEMORANDUM

On April 12, 1984, the court issued a memorandum and order in the above-captioned action, which found part of Pennsylvania's Motor Vehicle Code unconstitutional in light of the Supremacy Clause and the federal Surface Transportation and Assistance Act of 1982 (STAA), 49 U.S.C. §§2301-2316. The order of court was amended on April 16, 1984, to reflect that only those portions of the Pennsylvania Vehicle Code which conflicted with STAA were null and void. Pursuant to Fed. R. Civ. P. 62, Defendants have moved for a

partial stay pending appeal. In particular, Defendants seek to stay enforcement of our prior order to the extent that it authorizes truck tractor and single trailer combinations in excess of 60 feet in length to operate on all Pennsylvania roadways. Defendants seek to limit the operation of such vehicles, pending appeal, to the "designated network"[1] and reasonable access therefrom.[2]

All parties agree that the requirements for granting a stay pending appeal are analogous to the requirements for granting a preliminary injunction. To prevail on their motion, Defendants bear the burden of establishing the following:

1. Likelihood of success on the merits;
2. Irreparable injury to Defendants without the stay;
3. The absence of substantial harm to Plaintiffs; and
4. The absence of harm to the public.

---

[1] "Designated network" refers to the network of roadways established by the Federal Highway Administration (FHWA), pursuant to STAA, 49 U.S.C. §2311(e), in addition to interstate highways.

[2] See 49 U.S.C. §2312.

REPUBLIC INDUSTRIES, INC. v. CENTRAL PENNSYLVANIA TEAMSTERS PENSION FUND, 537 F. Supp. 1036 (E.D. Pa. 1982); PHILADELPHIA COUNCIL OF NEIGHBORHOOD ORGANIZATIONS v. ADAMS, 451 F. Supp. 114 (E.D. Pa. 1978). We will address these aspects seriatim.

Defendants contend that they are likely to succeed upon appeal because the court erred in failing to explain how overlength vehicles (tractor-single trailer combinations in excess of 60 feet) are excluded from the definition of "commercial motor vehicles" and because the court erred in failing to give full and proper deference to FHWA interpretations of STAA. Plaintiffs, while recognizing that this is a difficult case, argue that the plain language of STAA controls and our prior decision is correct.

Because we have already ruled on the underlying issues, no need exists to repeat our previous findings and analysis. Nevertheless, Defendants are incorrect that we did not give proper deference to the FHWA's interpretations of STAA. The numerous examples of FHWA promulgations that Defendants cite in support of their position reveal no clear-cut analysis and interpretation. Moreover, Defendants appear to be playing semantics by claiming we have failed to define "commercial motor vehicle" and its application to the access requirements contained in 49 U.S.C. §2312.

Regardless, we agree that the issue of whether STAA's overall length prohibitions applied to the operation of tractor-trailer combinations on all Pennsylvania roadways was difficult. As to the maximum permissible trailer length in Pennsylvania (53 feet) and as to the overall length prohibition's applicability to tractor-trailer combinations operating on the designated network, we believe Defendants' likelihood of success is minimal.

The second consideration in a motion for a stay pending appeal is whether Defendants will be irreparably harmed by the failure to grant a stay. In this case, this factor essentially involves the fourth consideration of harm to the public. Through an affidavit by James R. Doughty, a professional engineer and the chief of the division of Traffic Engineering and Operations of the Commonwealth of Pennsylvania, Department of Transportation, Defendants maintain that the operation of overlength vehicles on all Pennsylvania roadways will degrade safety and traffic operations, resulting in an increased likelihood of injuries and deaths. Defendants further argue that the operation of such vehicles will pose the potential of damage to traffic signal poles and signs at intersections, in addition to pedestrian safety concerns. Doughty Affidavit, at 2a.

Plaintiffs strongly dispute Defendants' assertions. First, Plaintiffs claim Defendants' safety concerns are factually incorrect. Plaintiffs have offered the affidavit of Thurman Sherard a professional engineer and the retired Director of Research and Chief Engineer for the Western Highway Institute, who concludes that the safety concerns of Defendants, i.e., the ability of vehicles to make turns and handle intersections, are controlled by a vehicle's turning radius and off-tracking and not by the vehicle's overall length. Sherard's affidavit is thorough and well-supported with exhibits. Defendants have not offered any affidavits to contest the accuracy of Sherard's statements.

We agree with Plaintiffs that Defendants appear to have erroneously equated the overall length of a combination vehicle to the vehicle's off-tracking and maneuverability characteristics. If Defendants are truly concerned about a vehicle's maneuverability and corresponding safety problems, which we do not doubt, the more realistic approach is for Pennsylvania to regulate kingpin to rear axle length limits or the distance between articulation points. See Sherard's Affidavit, ¶¶13, 14, 22. This is particularly true in light of Congress' policy decision that states should not regulate the length of a truck tractor directly or indirectly. 49 U.S.C. §2311(b). Unlike tractor length or overall combination length prohibitions, Congress has not forbidden the states to establish kingpin to rear axle length limits to meet safety concerns.

Finally, we question the accuracy of Defendants' claims that safety will be jeopardized by permitting overlength trucks to use any Pennsylvania road when Pennsylvania presently permits 65-foot auto carriers and carriers transporting nondivisible loads of up to 70 feet to use any road in the Commonwealth. 75 Pa. C.S.A. §4923(b)(2),(5). As Plaintiffs observe, "If these vehicles do not cause safety problems requiring designated routes, then it hardly seems consistent to claim that vehicles limited to 53-foot trailer lengths would cause safety problems." Plaintiffs' Brief in Opposition to Stay, at 4. Thus, we fail to find that Defendants or the public will be irreparably harmed if a stay is not granted.

The last factor Defendants must establish is the absence of substantial harm to Plaintiffs if a stay is granted. We do not believe this consideration has been satisfied by Defendants. Defendants claim that limiting the operation of overlength vehicles to the designated network and access routes will not unduly interfere with Plaintiffs' operations. Nevertheless, as the parties stipulated, Plaintiffs are <u>irregular</u> route common carriers. The designated network and access system does not accommodate their business

needs. To grant the stay would prevent the overlength vehicles from traveling on a substantial percentage of Pennsylvania's roads and would increase the costs of Plaintiffs' operations.[3]

In balancing the various factors and arguments presented by the parties, we find that a partial stay pending appeal is not justified. It is questionable whether Defendants will prevail on appeal. Additionally, we find that neither Defendants nor the public would be irreparably harmed by granting a stay while Plaintiffs would suffer substantial harm.

An appropriate order will be entered.

R. DIXON HERMAN
UNITED STATES DISTRICT JUDGE

Dated: June 4th, 1984

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[3]In their brief, Defendants stated, "Contrasted to the public's interest in safe roads are plaintiffs' private pecuniary interests. Clearly the balance tips in favor of defendants." Defendants' Supporting Brief, at 4. We disagree. First, the public's interest in safe roads is not affected so much by the operation of vehicles limited to 53-foot trailer lengths as by a vehicle's off-tracking and maneuverability, which is not regulated by Pennsylvania. Moreover, private pecuniary interests are not always second to the public's interest. Rather, these interests must be balanced in light of the circumstances.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NATIONAL FREIGHT, INC., a New Jersey corporation; DART TRANSIT COMPANY, a Minnesota corporation; OWENS - ILLINOIS, INC., an OHIO corporation; and CONTINENTAL CAN COMPANY, INC., a Delaware corporation,

Plaintiffs

vs.

THOMAS D. LARSON, Secretary of Transportation; COL. DANIEL F. DUNN, Commissioner of State Police; LEROY S. ZIMMERMAN, Attorney Genaral; and HON. RICHARD THORNBURGH, Governor,

Defendants

: CIVIL ACTION NO. 83-1733

FILED
HARRISBURG, PA.
JUN 4 1984
DONALD B. BERRY, CLE
PER
DEPUTY CL

ORDER

AND NOW, this 4th day of June, 1984, in accordance with the accompanying memorandum, IT IS HEREBY ORDERED that Defendants' motion for a partial stay of the court's April 16, 1984, order in the above-captioned case is denied.

R. DIXON HERMAN
UNITED STATES DISTRICT JUDGE

Accident Exposure

As previously noted, decreasing the number of miles traveled or the number of vehicles on the roadway is the leading means of decreasing accidents.

It was on this basis that R.D. Ervin co-author of "Safety and Operational Impacts of 53-Foot Truck Trailers in Michigan" (U of Michigan Transportation Research Institute 1986) testified in support of 53-foot legislation in Michigan and Georgia.

A survey by the 60NR Committee, a large group of motor carriers, shippers, and industry suppliers who advocated 53-foot semitrailer legislation, made a survey of members and, based on it, projected mileage reduction of 15% to 43% and a projected reduction of 1600 loads annually.

Fifty-seven foot trailers present the same capabilities. While no exhaustive studies have been made, some shippers in Mississippi indicated the following annual savings by utilizing 57-foot semitrailers at their facility in that single state:

Manufacturers of corrugated products	50 loads
Metal container manufacturers	162 loads and 22,792 miles
Manufacturers of insulation	50 loads 4,000 miles

If these vehicles did not decrease mileage or loads, they would not have a niche in the marketplace.

The demand for these semitrailers keeps growing In Texas, it is estimated that over 50 percent of the truckload freight now moves on these longer semitrailers The savings in vehicle miles or exposure has to be significant.

This is clearly a situation where length enhances safety

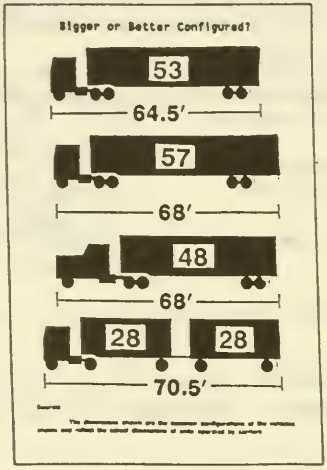
Miscellaneous Facts

While it is frequently asserted that it is difficult to pass longer vehicles, there are two important factors to consider

Initially, the length of the semitrailer does not necessarily determine the overall length of the vehicle. The overall length is determined by the combination of tractor and semitrailer.

In many instances, a semitrailer 48 feet in length will be matched with a tractor causing the overall length to be greater.

Note this chart.



The federal government has banned overall length limits on the Interstate and Designated Highways as a factor not bearing on safety

Further, if it is assumed that the same type tractors were pulling a 57-foot semitrailer, it would take approximately one third of a second more passing time assuming a 10 mile per hour differential between the vehicles in the passing maneuver The difference in a 48-foot semitrailer and a 57-foot semitrailer would be approximately two-thirds of a second. A nickel dropped from a store counter would take approximately one-third of a second to reach the floor.

We also feel it significant that responsible manufacturers are producing these semitrailers despite the threat of product liability. Responsible motor carriers are operating them despite the threat of public liability. And insurance companies have not refused to insure them.

Weight

The type semitrailers being discussed are designed for and used in the transportation of light and bulky commodities such as consumer paper products, empty containers, foodstuffs, automobile parts, appliances, artificial flowers, and so on.

It is not uncommon for a truckload of freight to weigh less that 5,000 pounds and an average truckload to weigh about 25,000 pounds.

The semitrailers all operate within the existing weight laws.

While some weight would be added, at the light end of the spectrum, there is little weight increase - normally 8 to 10 percent over a 53-foot semitrailer. It would appear that there would be a near wash between increased roadwear from additional weight and decreased roadwear from reduced trips.

Like safety statistics, one must be careful about studies or statistics related to pavement wear and tear.

These studies are usually sensitive to assumption about existing traffic loads, present pavement conditions, and the project mix and volume of vehicular traffic and the cargo. One leading expert in addressing the roadwear issue in respect to 53-foot semitrailers stated.[2]

> The report's[3] conclusions on roadwear are predicated on cargo weights several times what these vehicles [53's] specifically carry In fact, low density carriers who use fifty-three foot semitrailers are near the bottom of the list in terms of roadwear, with their roadwear being a small fraction of that caused by heavier vehicles.

Continuing, it was stated

> This methodology used in calculating the dollar cost of roadwear is erroneous because it assumes fifty-three foot trailers will be the same average weight as all combination trailers. Clearly they would not be, since the reason for their existence is to handle very low density cargo.

This is equally , if not more, true of 57-foot semitrailers.

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[2] Donahue, "To What Lengths Should New York State Go?", A Report of the Legislature By the Legislative Commission on Critical Transportation Choices (1990) p. 128.

[3] Richard D. Ervin and Thomas D. Gillespie, Safety and Operational Impacts of 53-Foot Truck Trailers in Michigan (Ann Arbor: Transportation Research Institute - The University of Michigan (1986).

In respect to safety, weight should also not be a factor. Initially, the 57-foot semitrailers have a minor increase in tare weight and also the type of freight hauled makes them weigh considerably less than the vast majority of trucks on the road.

Accidents are a function of many factors, including the handling and performance characteristics of the vehicles, the roadway design, the characteristics of the traffic on the roadway, the operating environment, and the driver. The relationships among these factors are not well understood and cannot readily be quantified, which complicates the task of isolating factors that contribute to increased accident risk.

Weight does not increase accidents. The disparity in weights of the vehicles may in certain circumstances increase the severity of an accident, but this is not a factor in the length or weight of 57-foot semitrailers.

Summary

The 57-foot semitrailer provides significant benefits to shippers and receivers and the public generally by creating the opportunities for lower consumer costs, greater fuel conservation, and decreased emission with minimal[4] , if any, increased highway wear.

Because of the ability to regulate maneuverability by the kingpin positioning, the use of "Michigan" bumpers, and the benefits of reduced accident exposure, the semitrailer is a safe vehicle which has been established in over 15 years of actual operations on the country's highway.

James C. Hardman
Vice President & General Counsel
Dart Transit Company
Fleetline, Inc.
June 10, 1994

57safdat.c94
cc File

[4] The pulling of 57-foot semitrailers does not require any greater consumption of fuel because the weight of the vehicle is not increased significantly. In fact, by decreasing the number of loads, less fuel is consumed.

THE
NATIONAL
INDUSTRIAL
TRANSPORTATION
LEAGUE

BEFORE THE

U. S. HOUSE OF REPRESENTATIVES

COMMITTEE ON

PUBLIC WORKS AND TRANSPORTATION

SUBCOMMITTEE ON

SURFACE TRANSPORTATION

H.R. 4496

SAFE HIGHWAYS AND INFRASTRUCTURE PRESERVATION ACT OF 1994

COMMENTS

SUBMITTED ON

BEHALF OF

THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE

JUNE 14, 1994

1700 North Moore Street, Suite 1900 • Arlington, Virginia 22209-1904 • (703) 524-5011 • (703) 524-5017 (fax)

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R.W. (Bob) Claiborne
Manager, Transportation and
Travel Services Operations
AT&T

President
Edward M. Emmett

The National Industrial Transportation League respectfully submits these comments in opposition to H.R. 4496, the *Safe Highways and Infrastructure Preservation Act of 1994*. The League supports the safe transportation of goods by truck. The League also supports the nation's weight and other highway dimensional laws. Our policies have long condemned violation of the nation's highway weight laws, and urged shippers to cooperate actively in efforts to eliminate abuses. The League opposes, however, the intention of this legislation to freeze or even turn the clock back on improvements to the safe and efficient movement of freight in this country. While there is an 80,000 pound weight restriction on Interstate Highways, the federal government has never regulated weights off the Interstates. Depending on the final NHS route designation, this proposed federal intervention could extend to state, county, and even city roads. Attached are comments from a League member that operates a private fleet (Frito–Lay) providing specific examples of how this legislation would affect their business.

IDENTITY OF
THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE

The League is the nation's oldest and largest shippers' transportation association and represents the broad spectrum of shippers and other users of freight transportation services. League members include small, medium, and large companies using all modes of transportation to move goods in intrastate, interstate, and international commerce.

BACKGROUND

H.R. 4496 as introduced on May 25, 1994, would prohibit states from registering any trailer, semi–trailer, container, or other cargo–carrying unit that is longer than 53–feet for operation on the Interstate Highway System and those roads designated as part of the National Highway System. The legislation would also prohibit the operation of any vehicle or combination (other than longer combination vehicles)

not in conformance with the Interstate weight limits.[1] The legislation also calls into question states' ability to issue over–weight and over–dimensional permits for non–divisible loads.

The proposed legislation would overturn the laws of 27 states on weight limits and 28 states on length limits. These laws allow mining products to move from West Virginia, agricultural commodities from farms in Wisconsin and Idaho, steel to move from steel mills in Pennsylvania, food products to move to supermarkets in California, and shipping containers to move from ports throughout the country.

POSITION OF THE LEAGUE

I. Safety: The safe movement of goods is a major concern of League members. Therefore, the League supports the efforts of Congress, the Department of Transportation, the states, shippers, and carriers in making American roads safe. League members are directly and indirectly affected by policies established to ensure safe transportation. First, those League members that operate private truck fleets must directly comply with safety regulations. In addition, League members, as shippers, are consumers of for–hire motor carrier transportation services and are greatly affected by the application of regulations which are intended to ensure the safe and economical operation of our nationwide transportation system.

These efforts to improve highway safety have been successful. DOT figures show that fatal truck accidents have declined over the last decade while the number of miles driven has increased; the number of trucks on the road have increased; and the size of the trucks have increased. The reason for this increase in safety is increased enforcement and awareness.

Longer combination vehicles are in use to a limited extent in 20 states, mostly in the West. While safety figures specifically relating to these trucks are incomplete, in the few states where statistics are kept, extra–long trucks appear to be safer than standard trucks. On the New York Thruway, for example,

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[1] Interstate weight limits are defined as 80,000 pound gross vehicle weight limitations, 20,000 pound single axle weight limitations (including enforcement tolerances), 34,000 pound tandem axle weight limitations (including enforcement tolerances) on a group of 2 or more consecutive axles produced by applications of Bridge Formula B.

the accident rate for LCVs was 0.92 per million miles compared with a rate of 2.37 for standard tractor trailers.[2]

According to the Transportation Research Board (TRB), reducing the size of trucks would have a negative safety impact since the freight would then require the use of more equipment. The same TRB study estimated that a weight rollback would increase transportation costs by $7.76 billion annually. This increase would result in decreased competitiveness and possible job loss.

Safety is achieved through the strict enforcement of safety laws and regulations not from limiting the size and weight of a vehicle.

2. Efficiency: American business is constantly under pressure from the tremendous changes and challenges of the world today. Shippers face the challenge of increased competition from every corner of the globe. How they meet these changes and challenges will determine whether or not they survive in the '90s and beyond.

To meet these challenges, business productivity has increased sharply in the last few years, and transportation has to keep pace with this growth. In recent years, transportation has kept pace, having boosted annual productivity by 4.5% a year over the last decade, more than twice the rate of all other businesses. Improvements in the efficiency of the trucking industry have been a large part of those productivity gains.

Longer vehicles and longer combination vehicles are enormously efficient, increasing cargo capacity by one-third to one half over regular trucks at only a slightly higher operating cost. Since the majority of goods still travel to market by truck, anything that makes tractor-trailers more efficient holds down both shipping and consumer prices. The converse is also true. Anything that lowers the efficiency of transportation, lowers the ability of the producer to compete in the global economy, which ultimately threatens American employment.

The types of commodities moving in 57 foot trailers are light weight or bulky materials. Shippers seek the efficiency of using these longer trailers for those materials that completely fill shorter trailers

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[2] *Journal of Commerce*, December 21, 1993.

before reaching the legal weight limit. It is important to realize that longer trailers are not the same as heavier trailers. A trailer of 57 feet weighing less than 80,000 pounds does no more damage to the highway infrastrucutre than a fully loaded 53-foot trailer.

To freeze size and weight limits at the current levels would create inefficiency, grant competitive advantage to some facilities at the expense of others, and hurt America's ability to compete. Such a freeze would fail to recognize the dynamic changes taking place in the world of transportation. One cannot turn the clock back for the protection of one mode. If that were the case, borax might still be moved by 20 mule teams instead of freight trains. The market needs to be able to adapt to changes.

One other aspect of efficiency should be considered. Reducing the size and weight of trucks, which would cause an increase in the number of trucks needed to move the same amount of goods, would further exacerbate the national driver shortage.

3. Permits for Non-Divisible Loads Must Be Preserved: It is of paramount importance to League members that the current ability of states, provided pursuant to federal law (23 U.S.C. 127(a)), to issue special overweight permits on interstate highways where the load cannot be easily dismantled or divided, not be altered, restricted, or changed. The League emphasizes that the state system of issuing overweight load permits is vital not only to the motor carrier industry, but indeed also to the health of the overall national economy. Specifically, companies that rely on the ability to transport indivisible loads utilizing state overweight permits could be irreparably harmed as a result of potentially having to relocate production points or to change their manufacturing and other processes to provide divisible loads that would not exceed generally applicable weight restrictions. Any attempt, therefore, to restrict the state system of issuing overweight load permits may result in the loss of jobs as businesses struggle to change their manufacturing techniques and locations to comply with transportation regulations.

Arguments have been made in support of restricting overweight permits because of excessive pavement wear. The League questions these arguments considering that, the nation's highway system is paid for in fees and taxes that are directly related to their use. For instance, as the weight of the vehicle and load increase, so does fuel consumption and tire wear. Hence, the heavier a loaded vehicle is, the more

taxes and fees it pays to state and federal governments.

Several League members have provided specific examples of how the limitation or removal of over-weight and over- dimensional permits would severely hurt their ability to compete. Armco Steel in Middletown, Ohio, uses these permits to move steel mill machinery needed to keep the plant up-to-date. This machinery is over dimensional and cannot be dismantled further. U.S. Steel of Pittsburgh, Pennsylvania, states that their ability to compete in world markets would be significantly reduced if they could not get special permits to move their products.

CONCLUSION

The policy statement prefacing ISTEA states that the purpose of the statute, in part, is to create a national intermodal transportation system "in a unified interconnected manner" that supports "the Nation's pre-eminent position in international commerce." The NHS includes routes that provide the needed access to intermodal ports and terminals in furtherance of that policy. The proposed rollback would be a major impediment to full implementation of ISTEA. A freeze or rollback would also pose a major obstacle to the continued competitiveness of American business.

Traffic Safety Alliance
111 Anza Boulevard, Suite 406 • Burlingame, CA 94010 • (415) 340-0470 • (800) 879-8142 • (415) 340-1740 FAX
11444 W. Olympic Boulevard, Suite 1018 • Los Angeles, CA 90064 • (310) 445-8885 • (800) 546-8846 • (310) 445-8870 FAX

June 9, 1994

The Honorable Nick J. Rahall
Chairman
Surface Transportation Committee
2269 Rayburn House Office Building
Washington D.C. 20515

Dear Chairman Rahall,

In preparation for your truck safety hearing next Tuesday, we want to take this opportunity to supply you and your colleagues with the following facts about the operations of triple trailer trucks.

Our organization, the Traffic Safety Alliance (TSA), is a public education program supported by transportation companies and experts throughout the 16 western states where triples are authorized to operate. We are extremely concerned about setting the record straight regarding larger trucks, and in particular, triple trailer trucks.

Triples have superior safety record:

☑ Triples have an excellent safety record in the states where they operate. For example in Oregon, the Public Utility Commission (PUC) announced recently that triple trailer trucks were three-to-four times safer than other vehicles on the road (see attached Oregon PUC press release).

☑ One of the reasons for the excellent safety record of triples is that they are the most regulated truck on the road. Triples, like all longer trucks, operate under special permits which restrict them to certain highways and prohibit driving them in extreme weather.

☑ Triples are driven at slower speeds by more experienced drivers. According to a study by the American Automobile Association Traffic Safety Foundation that is one reason for triples' excellent safety record.

The **AAA Foundation for Traffic Safety** study (1990) – "A Study of the Operating Practices of Extra-Long Vehicles" also stated:

"ELV's (extra-long vehicles) have a superior safety record. Their accident involvement rates are superior to those of 5-axle semis."

"Triples are by far the most attractive ELV on the highway"

And the AAA study concluded that triples should be utilized throughout the country.

Attached also is accident data collected from the states in which triple trailer trucks are authorized to operate (see state safety statistics chart). These include: Alaska, Arizona, Colorado, Idaho, Indiana, Kansas, Missouri, Montana, Nevada, North Dakota, Ohio, Oregon, Oklahoma, South Dakota and Utah. Data is not maintained in the sixteenth state, Nebraska, since they are only allowed to run empty.

Because triples have operated for a long period of time in many of these states, there is considerable information available to evaluate their safety and performance.

For instance, here are a few comments from state transportation officials where triples operate:

"In the 19 years triple trailer trucks have operated in Utah, they have achieved a safety record which is superior to all other commercial trucks."

Glenn Goodrich
Utah Department of Transportation

"Long combination vehicles have been operating in North Dakota for 10 years with an excellent safety record. Since 1985, we have had a total of 5,858 truck accidents. Only 16 of these accidents involved triple trailers."

James M. Hughes
Superintendent
North Dakota Highway Patrol

"My job is to keep Colorado's highways safe for motorists. If triple trailers were unsafe, I would oppose them. But they're not. Based on Colorado Department of Transportation records, the safety record of triples is excellent."

Colonel Lonnie J. Westphal
Colorado State Patrol

"My perception of the excuse by Congress for the current ISTEA-91 LCV freeze is that LCV's are huge, unsafe truck combinations. That has not been our experience in Idaho. [regarding triples] Their accident rate is phenomenally low as compared to the rest of the commercial vehicle combinations. I believe that the superior safety record for triples in Idaho is due to Idaho's strict permit system."

Clayton L. Sullivan, P.E.
Maintenance Engineer
State of Idaho, Transportation Department

"The safety record for the operation of LCV's on the Turnpike continues to be outstanding."

R.D. Fogo, P.E.
Chief Engineer Manager
Kansas Turnpike Authority

WASHTO Study:

Last summer, Norm Lindgren of the Utah Department of Transportation conducted a poll of 38 LCV carriers (although Utah alone issues permits to approximately 425 carriers) to obtain some preliminary data on the economic benefits of LCVs to WASHTO (Western Association of State Highway Transportation Officials) states. The following are a few findings from the 38 responses he received regarding safety and LCVs:

- ☑ The 38 company responses reported more than 199 million miles of LCV operations with an estimated mileage savings of more than 118 million miles.

- ☑ For state highway officials that means 118 million fewer miles of wear and tear on the highways, 118 million fewer miles of accident exposure and truck traffic.

- ☑ The 38 company responses indicated these companies alone have taken more than 403,000 trucks annually off the road through the operation of LCVs. Because most truck movements begin and/or end near a population center (because that is where freight demand is created), the **use of LCVs clearly reduced truck traffic** in those areas.

Regarding triples and pavement wear:

- ☑ Triples actually reduce wear and tear on roads and bridges. Because **triples distribute their freight load across a greater number of axles, they put less stress on the road, thus extending the highway's life.**

- ☑ This experience is reinforced by the Transportation Research Board's 1990 "Special Report 225 on Truck Weight Limits" which stated:

  "... other things being equal, a vehicle with more axles has less effect on pavements. Thus, a nine-axle combination vehicle carrying 110,000 pounds has much less effect on pavements than a five-axle combination vehicle carrying 80,000 pounds."

In conclusion -- when you compare the "facts" to the "emotional rhetoric" -- the facts bear out that triple trailer trucks are the safest, and most regulated, truck on the road. I hope this information will be of benefit to you and your committee.

Sincerely,

Ethie Weaver

Ethie Weaver
Director

Attachments: Oregon PUC press release of March 2, 1994
State Safety Statistic Chart
Triples Hand-out

PUC NEWS
OREGON PUBLIC UTILITY COMMISSION
550 CAPITOL ST. N.E.
SALEM, OR 97310-1380

Joan H. Smith, Chairman
Ron Eachus, Commissioner
Roger Hamilton, Commissioner

March 2, 1994
94-08

Triples show low accident rate in Oregon

Triple trailer combinations have a lower rate of truck-at-fault accidents than other trucks, according to statistics collected by the Oregon Public Utility Commission.

According to data required to be provided by triples operators, triple combinations traveled 24 million miles on Oregon highways in 1993. This, coupled with data from accident reports, shows that there were .17 preventable triples accidents per million miles in 1993. Considering the preventable accident rate for all trucks was .52 per million miles in 1992, triples are earning a good safety record in Oregon. (Following a 1993 Oregon Department of Transportation rule, triples operators are required to report their Oregon mileage to the PUC.)

Out of 1,316 truck accident reports received by the PUC in 1993, eight of those involved triple trailer combinations. Four of the eight accidents were considered preventable, meaning the truck or truck driver was at-fault. The remaining four were due to actions of automobiles.

The accident statistics on triples confirm the safety record the PUC has compiled from its safety inspections. From 1991 through 1993, state safety inspectors conducted 239 inspections on triples. The average vehicle out-of-service rate was 4.88 percent of vehicles inspected, compared with 20.39 percent for all other vehicles inspected. Safety inspectors place a vehicle out-of-service if, during an inspection, a serious mechanical defect or driver problem is found. Violations that may place a vehicle out-of-service include brakes that are out of adjustment or inoperative and other mechanical problems, or driver's hours-of-service violations, or licensing problems.

###

Accident Data By Configuration

In States Authorizing Triple Trailer Trucks

State	Cars/Nontrucks	All Trucks	Triple Trailers
Alaska (1989-1992)	78410	2523	0
Arizona	###	###	0
Colorado (1988-1991)	437115	20085	17
Idaho (1982-1991)	346710	16223	67
Indiana (1988-1992)	###	###	0
Kansas Turnpike (83-92)	6934	1986	13
Missouri	540068	275913	0
Montana (1990-1992)	74555	4831	15
Nevada (1988-1992)	187324	9444	103
North Dakota (1985-1992)	89979	5858	16
Oregon (1985-1991)	330154	10476	65
Ohio (1987-1993)	12350	###	39
Oklahoma (1987-1991)	569447	50921	0
South Dakota (1990-1992)	45640	2612	2
Utah (1988-1991)	291879	6539	90

ABOUT TRIPLE TRAILER TRUCKS

The Traffic Safety Alliance (TSA), a public education program supported by transportation companies and experts throughout the 16 western states where triples operate, would like to provide you with the facts regarding triple trailer trucks (triples).

• SUPERIOR SAFETY RECORD:

√ Triples have an excellent safety record in the states where they operate. For example in Oregon, the Public Utility Commission (PUC) recently announced that triple trailer trucks were three-to-four times safer than other vehicles on the road (see attached Oregon PUC press release).

√ One of the reasons for the excellent safety record of triples is that they are the most regulated truck on the road. Triples, like all longer trucks, operate under special permits which restrict them to certain highways and prohibit driving them in extreme weather.

√ Triples are driven at slower speeds by more experienced drivers. According to a study by the American Automobile Association Traffic Safety Foundation one reason for the triples' excellent safety record is that they generally are driven at lower speeds by more experienced drivers.

The **AAA Foundation for Traffic Safety** study (1990) -- "A Study of the Operating Practices of Extra-Long Vehicles" also stated:

"ELV's (extra-long vehicles) have a superior safety record. Their accident involvement rates are superior to those of 5-axle semis."

"Triples are by far the most attractive ELV on the highway"

And the AAA study concluded that triples should be utilized throughout the country."

Attached is accident data collected from the states in which triple-trailer trucks are authorized to operate (see state safety statistics chart). These include: Alaska, Arizona, Colorado, Idaho, Indiana, Kansas, Missouri, Montana, Nevada, North Dakota, Ohio, Oregon, Oklahoma, South Dakota and Utah. Data is not maintained in the sixteenth state, Nebraska, since they are only allowed to run empty.

Because triples have operated for a long period of time in many of these states, there is considerable information available to evaluate their safety and performance.

Traffic Safety Alliance • 111 Anza Blvd., Suite 406 • Burlingame, California 94010
(800) 879-8142 • (415) 340-0470 • (415) 340-1740 FAX

◆ WHAT TRANSPORTATION EXPERTS SAY ABOUT TRIPLES:

"In the 19 years triple trailer trucks have operated in Utah, they have achieved a safety record which is superior to all other commercial trucks."

Glenn Goodrich
Utah Department of Transportation

"Long combination vehicles have been operating in North Dakota for 10 years with an excellent safety record. Since 1985, we have had a total of 5,858 truck accidents. Only 16 of these accidents involved triple trailers."

James M. Hughes
Superintendent
North Dakota Highway Patrol

"My job is to keep Colorado's highways safe for motorists. If triple trailers were unsafe, I would oppose them. But they're not. Based on Colorado Department of Transportation records, the safety record of triples is excellent."

Colonel Lonnie J. Westphal
Colorado State Patrol

"My perception of the excuse by Congress for the current ISTEA-91 LCV freeze is that LCV's are huge, unsafe truck combinations. That has not been our experience in Idaho. [regarding triples] Their accident rate is phenomenally low as compared to the rest of the commercial vehicle combinations. I believe that the superior safety record for triples in Idaho is due to Idaho's strict permit system."

Clayton L. Sullivan, P.E.
Maintenance Engineer
State of Idaho, Transportation Department

"The safety record for the operation of LCV's on the Turnpike continues to be outstanding."

R.D. Fogo, P.E.
Chief Engineer Manager
Kansas Turnpike Authority

◆ ECONOMIC BENEFITS FOR CONSUMERS/BUSINESSES:

- All businesses and consumers depend on safe, cost effective transportation to reduce their transportation costs. A triple trailer does the job of two or three trucks. That means with triples, companies would use fewer trucks, using less fuel, to deliver the same quantity of products which means lower transportation costs.
- For instance, if triples were banned in the state of Oregon, the cost from such a ban would have been up to $398 million annually, according to an independent study conducted by Economic Applications International, Inc. (1992).

Traffic Safety Alliance • 111 Anza Blvd., Suite 406 • Burlingame, California 94010
(800) 879-8142 • (415) 340-0470 • (415) 340-1740 FAX

- According to Dave Kintigh, Williams' Bakery, in Eugene, Oregon, whose company fleet of 13 trucks includes 9 triples:

  "We ship almost 80% of our bread to market on our triple trucks. The low transportation costs allow us to stay competitive in markets that are far away from our Eugene ovens.

  "If Williams Bakery were forced to buy more trucks to ship the same amount of bread to market, it would increase our transportation costs by about $250,000 a year ... we'd have to use 38,000 more gallons of diesel fuel ... those cost increases would have to be passed along to consumers."

- **Albertson's food stores** save nearly $590,000 a year through the operation of LCVs according to the 1993 UTAH Department of Transportation survey.

- **Smith's Food and Drugs** saves $670,000 every year in operational costs through the operation of LCVs according to the 1993 UTAH Department of Transportation survey.

◆ TRIPLES REDUCE PAVEMENT WEAR:

- Triples actually reduce wear and tear on roads and bridges. Because triples distribute their freight load across a greater number of axles, they put less stress on the road, thus extending the highway's life.

- This experience is reinforced by the Transportation Research Board's 1990 "Special Report 225 on Truck Weight Limits" which stated:

  "... other things being equal, a vehicle with more axles has less effect on pavements. Thus, a nine-axle combination vehicle carrying 110,000 pounds has much less effect on pavements than a five-axle combination vehicle carrying 80,000 pounds."

- In response to an Oregon 1992 ballot measure to ban triples, the Oregon Department of Transportation conservatively projected that it would cost the state an **additional $2.5 million in road repair and maintenance costs because of the additional truck miles that would result from a triples ban.**

◆ WASHTO STUDY FINDINGS:

- In the summer of 1993, Norm Lindgren of the Utah Department of Transportation conducted a poll of 38 LCV carriers (although Utah alone issues permits to approximately 425 carriers) to obtain some preliminary data on the economic benefits of LCVs to WASHTO (Western Association of State Highway Transportation Officials) states. The following are a few findings from the 38 responses he received regarding safety and LCVs:

- The 38 company responses reported more than 199 million miles of LCV operations with an estimated mileage savings of more than 118 million miles.
- For state highway officials that means 118 million fewer miles of wear and tear on the highways, 118 million fewer miles of accident exposure and truck traffic.
- The 38 company responses indicated these companies alone have taken more than 403,000 trucks annually off the road through the operation of LCVs. Because most truck movements begin and/or end near a population center (because that is where freight demand is created), the use of LCVs clearly reduced truck traffic in those areas.
- Total cost savings of more $159 million a year. Savings to transportation companies, businesses and all consumers.

Benefits of LCVs on the Federal Level:

- The Transportation Research Board (TRB) in Special Report 225 ("Truck Weight Limits -- Issues and Options", October 1990) concluded that the operation of heavy trucks, including western LCV's, saves the national economy approximately $8 billion a year. Obviously, that is a dramatic figure considering LCVs are currently authorized in only 21 states and of those 21, most routes are extremely limited and in some cases only approximately 30 miles.
- Also, according to a Sydec, Inc. report (May 14, 1990) submitted to the Trucking Research Institute: "Additional savings due to LCVs would total $3.757 billion dollars (in 1988 dollars)."

◆ TRIPLES AND THE ENVIRONMENT:

√ Triples are better for the environment because they consume less fuel and emit less exhaust to move the same amount of goods. And less emissions contributes to the goal and mandates of the Clean Air Act and fewer dollars expended toward that goal.

And in response to an Oregon 1992 ballot measure to ban triples, **Daniel Sperling, Chair of the Transportation Research Board Committee on Alternative Fuels said:**

"If Oregon bans triples, increased fuel consumption would cause a 27 - 40% rise in emissions."

November 7, 1993

Honorable William O. Lipinski
5832 S Archer Avenue
Chicago Illinois 60638

Dear Representative Lipinski,

We applaud your efforts to finally control the detritus spewed upon our streets, highways and cars with impunity by open-topped trucks. Personally we have had to replace 2 windshields due to damage suffered from these trucks. However the most frightening episode occurred when a 3 inch stone from a gravel hauler rocketed through an open window, scarcely missing Deborah's head, to damage the rear window.

We presently live near the Material Service quarry in McCook and we have observed that most of the stone haulers in fact have tarpaulins. However they never utilize the covers and keep them rolled up. I seriously doubt that most of the truckers would expend additional money to equip their trucks with a tarp.

Furthermore I question the Midwest Truckers Association claim that hauling rates would increase 36.5%. How long does it take to unroll and secure a tarpaulin?

The association also claims that voluntary covering of loads is "99% effective." This is a meaningless number which certainly is not grounded in reality, since it is impossible to verify exactly how many trucks cover loose loads. One number which can be certified however is the number of cracked windshields and damaged car finishes from flying debris that is registered through insurance companies.

It is time that the trucking industry is held responsible for their negligence in securing loose loads. It is time to end the cost-shifting to car owners of damage incurred from these unsecured loads, as well the cost-shifting to local municipalities of the clean-up of the street debris.

Sincerely,

Robert + Deborah Padley

Robert and Deborah Padley
4506 Custer Avenue
Brookfield Illinois 60513

Dr. Claudette Pieczynski
CHIROPRACTIC PHYSICIAN

3045 WEST 59th STREET
CHICAGO, IL 60629
436-2661

November 5, 1993

Congressman Bill Lipinski
1501 Longworth Building
Washington, D C 20515

Dear Sir:

I live in Indian Head Park, Il., 60525, and travel past the Vulcan Quarry going to and from my office. Debris and rocks and dust from the uncovered dump trucks have put many knicks in my car. An investment in a new car is a very large sum of money and it is very frustrating to have a new car dented and dirtied because these trucks don't cover their loads--many of them have tarps rolled up behind their cab and don't even use them.

I would love to see legislation passed that would require trucks to cover their loads. Please vote in favor of it.

Please vote against the proposed new McCook reservoir. We have enough odors from Argo, water reclamation, etc. Closing 55th Street would drastically overload Joliet Road which is already getting more traffic than it can handle--thanks to the development of the Quarry shopping area.

Also thank you for taking a stand against NAFTA. Americans, and especially Illinois workers have already lost too many jobs to other countries. Is there anything MADE IN AMERICA anymore? Our leaders tell us to buy American. Where are we to get the money to buy ANYTHING if all the jobs leave our country?

As for Health Care Reform, please keep in freedom of choice so that people can choose Chiropractic care when needed. Many studies show conservative Chiropractic care for musculo-skeletal injuries get people well and back to work at least 40% faster than medical treatment.

Sincerely,

Dr. Claudette Pieczynski D.C.

Dr. Claudette Pieczynski, D. C.

Wm Lipinski
Congressman 3rd Dist.
1501 Longworth Bldg.
Washington, D.C. 20515

11-2-93

Attn; Topless Trucks;

I concur with your proposed legislation to cover trucks that carry cargo and may spill or cause damage to people or property.

The winshield in my car was damaged a few years back from rocks falling out the tailgate of a truck. T he front of my car has nicks from items falling from trucks on the Dan Ryan Xway. Garbage trucks go like hell with no covers. Frequently we see items along the Xway that fell from a truck. There are times we run over them as you see them to late to avoid hitting the item.

Thank You for your interest.

Dave Morris

Dave Morris
5183 W Otto Pl
oak Lawn, Il. 60453

Nov 11 1993

DEAR CONGRESSMAN LIPINSKI

I AM RETIRED SO I don't DRIVE THE EXPRESSWAY SYSTEM AS MUCH AS WHEN I WORK, but I STILL USE THE STEVENSON EXPRESSWAY About TWICE A WEEK ON THE AVERAGE.

IN THE JAST TWO yEARS I WAS behind A dump TRUCK (NOT COVERED) AND SOME debris hit MY WINDSHIELD. OF COURSE IT STARTLED ME AND could HAVE CAUSED AN ACCIDENT, THE WINDSHIELD had To be Replaced. About LyEAR LATTER AGAIN I happened To be behind AN (UNCOVERED) TRUCK AND SOME THING hit My GRILL, which had To be Replaced AT My INCONVENIENCE AND EXPENSE. I APPRECIATE YOU TRYING To GET LEGISLATION THROUGH CONGESS To HAVE All Loads COVERED

TWO OTHER PROBLEMS I SEE ON THE STEVEN SON ARE TOOMANY SEMI TRAILORS USE THE EXTREME LEFT LANE WHEN THERE ARE PLENTY OF SIGNS SAYING TRUCKS USE TWO RIGHT LANES. Also PEICES OF RETREADED TIRES LITTER THE EXP RESSWAY

SINCERELY

Edward J Duck

6907 Roberts Road
Bridgeview, IL 60455
November 5, 1993

Congressman Bill Lipinski
1501 Longworth Building
Washington D.C. 20515

Dear Congressman Lipinski:

As there are many times when one is forced to follow a truck with an open load with debris flying and hitting our cars causing windshield damage or damage to the paint, I strongly support you legislation that would force trucks to cover their loads.

Not only does this cause damage to our vehicles, it can also present a dangerous situation as some people slow down to unsafe speeds on the expressways just to fall back away from the flying debris.

I feel that it would be to the benefit of all motorists if all open loads were required to be covered.

Sincerely,

Janet Leginski

November 04, 1993

Congressman Bill Lipinski

Concerning Topless Trucks I've had my windshield cracked by flying rocks coming from these trucks. Both of my cars windshields have little nicks in them everywhere and also not to mention the paint on the front of my cars.

The problem is just not the topless trucks but also the dump trucks that when they hit a bump in the road gravel and sand fall off the back from where they dump these loads.

I travel on the 294 tollway where the construction is being done on going to and from work. I'm getting tired of being sprayed by sand, gravel and rocks at least twice a week.

I back you 100% on this legislation bill that you're pushing Congressman Lipinski.

Thank you for your time and concern sir.

Sincerely,

Layne A. Howard

Layne A Howard
10732 71 St.
Countryside, IL 60525-4802
(708) 579-5127

11-3-93

CONGRESSMAN LIPINSKI

ON A RAINY DAY IN MARCH OF 1993 I HAD JUST LEFT HOME ON MY WAY TO MILWAUKEE, WI. FOR A BUSINESS TRADE SHOW. TRAVELING SOUTH ON I55, 3 MILES INTO MY TRIP A TRUCK IN THE LANE ON MY RIGHT SUDDENLY SWERVED INTO MY LANE CAUSING ME TO QUICKLY MOVE TO THE FAR LEFT LANE. AS SOON AS I HAD CLEAR VISABILITY AHEAD I SAW CIRCULAR BANDS OF STEEL FLYING OFF A SECOND TRUCK INFRONT, ROLLING IN EVERY DIRECTION. AS I WAS ATTEMPTING TO SLOW DOWN AND PULL OVER TO THE SHOULDER, ONE OF THE BANDS ROLLED INTO MY FRONT LEFT TIRE BLOWING OUT THE TIRE. FORTUNATELY NO PERSONAL DAMAGE, BUT I WAS NOT THE ONLY CAR TO BE HIT AS THERE WERE 2 OTHERS PULLED OVER IN MY VICINITY. WHO KNOWS HOW MANY MORE HE GOT AS HE WAS ROLLING MERRILY ALONG HIS WAY.

AT WHOSE COST WAS THE TRUCKS NEGLIGENCE? MINE, BUT I CAN DEAL WITH REPLACEMENT OF A TIRE AND SOME TIME. IT IS THE OTHER SIMILAR INCIDENTS THAT DO NOT ALWAYS HAVE SUCH A SIMPLE ENDING. ACCIDENTS, INJURIES, DEATH!

I SUPPORT YOUR LEGISLATION.

RON FRICILONE
4378 WISCONSIN
STICKNEY, IL. 60402

November 4, 1993

Congressman Bill Lipinski
1501 Longworth Building
Washington, D.C. 20515

Dear Congressman,

I bought a new '93 Cadillac last year. I have all kinds of knicks on this car from topless trucks running 1st Avenue, 47th in Brookfield, and East Avenue. There is no way I can escape these truck going to and from work.

These stones also fall out from the bottom of their tail gates.

Anything you can do would certainly be appreciated.

M. Bogdanich
2300 Keystone
N.Riverside, IL 60546

James M. Wisniowicz
7915 S. Kenneth
Chicago, IL. 60652

Honorable William Lipinski
1501 Longworth Building
Washington, D.C. 20515
ATTN: TOPLESS TRUCKS

11/5/93

Congressman Lipinski,

I am Glad to hear that you have introduced legislation to force trucks to cover their loads. These trucks are not only a nuisance, they are dangerous.

Falling debris from these trucks has nicked and pitted the front and hood of my car and broke the windshield once. In addition, I was almost forced off the road once by a driver trying to avoid falling debris.

Please do all you can to pass this legislation. Keep up the good work.

Sincerely,

James M. Wisniowicz

James M. Wisniowicz

Nov. 9, 1993

Dear Congressman Lipinski:

Yes we have had experiences with heavy trucks on the highway throwing debris back at our car.

On one occasion the rock hit so hard it startled us and did crack the wind shield; on several occasions debris from tires completely chipped the paint from the hood requiring a paint job.

When we were in Japan a few years ago we observed the activity at a construction site. Before the truck entered the street it was completely covered on top; then the truck and tires were hosed down so that no debris or even mud was left on the truck. When the truck entered the street it left no trace of mud or dirt.

Yours truly,
Lidy B. Barton
Robert H. Barton

CAMILLA D. ROSANOVA
6700 S. Brainard #110
Countryside, IL 60525

November 12, 1993

Rep. William Lipinski
1501 Longworth Building
Washington, D.C. 20515

Attn: Topless Trucks

Dear Mr. Lipinski:

This letter is in response to an article in your recent newsletter concerning debris from trucks.

In 1991, one day I was headed north on the Tri-State Tollway (I-294) around Ogden Avenue. A very large piece of metal flew off a truck ahead of me, and hit my left front fender. When you are on a crowded tollway traveling at 55 miles per hour, there is nowhere to go. Luckily, this debris did not hit my windshield, or I probably would have been killed. However, it did cause $400. worth of damage to my left front fender, and undoubtedly continued on it's journey and hit other cars.

This is a very serious, dangerous situation. You are literally taking yoiur life in your hands driving on the road with these uncovered loads on trucks. A few months ago, a woman was seriously injured on I-55 in a similar situation. Something must be done, and I am glad to see that you are taking action to prevent these incidents.

Sincerely,

Camilla D. Rosanova

Congressman Bill Lipinski, NOV 9 1993
About the uncovered Trucks.

We were driving on the expressway (Dan Ryan) & a large piece of metal fell off an large refuse truck that was uncovered. Traffic was on both sides & in back of us so we had to run over it. It ripped a hole in the gas tank & we lost a tank of gas (luckily it didn't explode) It cost us $40.00 towing, $140.00 for a used gas tank, out of our pocket, were Retired, couldn't catch the truck as we had to pull over. There should be a law against trucks with uncovered loads & be enforced.

We travel to Michigan often & there should be a law against trucks tail gating a car.

Also trucks should have to have a Sticker or some kind of checkup to see if their Brakes are good. We counted over 800 trucks going to Michigan (trucks coming to Chicago) So the number of trucks a day on I 94 is unbelievable. I don't dislike trucks its just many lives could be saved by a little enfreement.

Thank you

R. Ferguson
3415 So 59th Ct.
Cicero, Il 60650

John Mikutis
7217 S. Talman
Chicago, Il. 60629

Congressman: Lipinski;

I support you bill on toplers Trucks. I am a truck dasier for Schneider National and I believe they have the best safety team on the road. I see a lot of topler trucks out there and they dump a lot of rocks and garbage on our streets. Go after them there is no reason for there actions. If you have a chance check out Schneider safety program, they have a team that works only with there drives so if thee is a safety problem they will correct it. They spent a lot of time and money to make sure that the roads and drivers keep it safe.

Yours Truly
John Mikutis

1531 South Balmoral Avenue
Westchester, Illinois 60154
November 14, 1993

The Honorable William C. Lipinski
1501 Longworth Building
Washington, D.C. 20515

Dear Congressman Lipinski,

We drive a great deal in this family and are very much aware of the hazards caused by open vehicles, carrying loose materials. The situation puzzles me, because I distinctly recall strict tarpaulin laws. From 1935 until about 1953, my father was in the awning business and made various boat covers, tents, canopies and countless truck tarpaulins too. What happened to those laws? When did they cease to exist? Who cancelled them, and why?

Whether new legislation is needed or old laws can be resurrected, these threats to public safety must be controlled. A few years ago, on a trip to Wisconsin, a huge upholstered chair fell from a stake-bed trailer, right in our path. Fortunately, my husband was able to avoid the chair, without causing a pile-up. The "do-it-yourself" mover did not stop, apparently unaware of the incident.

We wholeheartedly support your quest for motorist safety, and ask that you include vacation vehicles also. It is all too common to see a camper toting lawn chairs, bicycles, and kiddy playtime apparatus tied on or about the roof, spare tire and rear bumper.

We commend your insight on this issue and applaud your stand against The North American Free Trade Agreement as well.

Sincerely,

Rosemary Cech

Rosemary Cech

ROBERT J. PARRAN
3937 Western Avenue
Western Springs, Illinois 60558
708-246-1221

November 1, 1993

Dear Congressman Lipinski:

I am glad to about your legislation forcing trucks to cover their loads.

On my last car, I had a windshield broken. My current vehicle has two big chips out of it from stones that have come off gravel trucks. Also, I had a big deflector shattered by a stone which fell off a truck possibly saving me from personal injury.

I regulary drive on 47th Street, 1st Avenue, and the Stevenson Expressway which are frequented by gravel trucks. A review of the gravel on the shoulders of these roads will demonstrate the extent of the problem.

I do not feel that my insurance Company should have to pay for the laxity of these truck operators In addition to requiring Covers, they should be required to sweep off the excess stones from the rear of their trucks.

Sincerely
Robert Parran

Nov. 2, 1993

Rep. Bill Lipinski
1501 Longworth Bldg.
Washington D.C. 20515

732 S. Madison
La Grange IL 6052

Dear Congressman:

Im regard to your Fall 1993 Bulletin, I also wish to complain about uncovered gravel trucks. They should be covered. I back your proposed law to cover gravel trucks.

As you might know, on La Grange road between Ogden and the Eisenhower Expressway it is awful. This past Monday I had a large rock come out of the gravel truck, strike my hood and then cracked my front windshield. The truck was uncovered.

First, what can I now do about it? And second, please press for a law to cover these trucks (especially the quarry trucks at Vulcan in McCook).

Sincerely,
Michael Krzywosz
~~Lorraine Krzywosz~~
Mr & Mrs Michael & Lorraine Krzywosz

Dec 14, 1993

Hon. Wm. Lipinski
U.S. House of Representatives
1501 Longworth Bldg.
Washington, D.C. 20515

Attn: Topless Trucks.

I read of your sponsorship of a Bill to require dump trucks to be covered when hauling a load of material that can blow out or off the top.

You are absolutely right! Such a Bill is long over due.

In my 45 yrs of driving experience I have lost 2 windshields to stones from dump trucks, and in 3 other cases I was able to have the pit ground out before a crack started (I finely learned from the 1st two losses).

Yours,

Bob Stuff
5836 S. Meade Av.
Chicago, Il. 60638-3542

January 24, 1994

Congressman N. O. Lipinski
1501 Longworth Hse. Build.
Washington DC

Sir:

Please continue your efforts on regaining covering of truck loads.

I travel Rte 55 regularly and see the abuse of our roads by trucks with no covers or their loads or poorly covered loads. This results in a huge clean up cost of waste blown off garbage trucks, etc. Trash on the highways and Rtes the front end of our cars.

Thank You
Jack Shukis
12503 73rd Ct.
Palos Hts, IL 60463

Robert J. Hadley
27 South Stone Avenue
La Grange, Illinois 60525
(708) 352-8551

March 1, 1994

Congressman Bill Lipinski
1501 Longworth Building
Washington, D.C. 20515

Dear Congressman Lipinski:

I recently re-read your Fall of 1993 Constituent Bulletin and I wanted to comment on one of the items in the "Keeping Busy" section. Not too long ago, I had a headlight shattered by a stone that came flying off of an uncovered truck. It cost me $90.00 for the part and $50.00 labor to have the composite headlight assembly replaced. There was no way to know which truck caused the damage because it was ahead of me, bouncing its way down La Grange Road. I strongly support any legislation that would force trucks to cover their loads. This unsafe and expensive practice of carrying stones and other items, piled higher than the uncovered trailer must stop.

Sincerely,

Rob Hadley

04 Nov 93

Congressman Bill Lipinski

It was just Monday of this week when a topless truck bounced pass me on I-55 and a stone or salt falling from it, cracked (dinged) my windshield & no doubt chipped paint.

Some of these mud haulers drive like maniacs and I think tarping load is a must. Not only that but the rear of trailer should be cleaned off after dumping a load.

I don't know why they dont recieve numerious over weight fines the way they are loaded. The pile stuff up higher than the sides and pulling 80-Ton on short 20' trailers. There is no way they can legally scale it. If they were made to run legal the tarping could have been avoided.

Yes for covering topless trucks

Ken Rinkus
6301 W 83rd Pl
Burbank, Il 60459

Barry M. Suslowicz
15421 Hickory Lane
Oak Forest, Illinois. 60452

Bill Lipinski, Congressman
1501 Longworth Building
Washinton, D.C. 20515

Dear Mr. Lipinski,

This letter, in part, is in reference to the damage cause by uncovered trucks.

I fully support legislation that would force trucks to cover their loads. I had personal experiences with trucks hauling sand, gravel and other items on the road while driving my car. Whats worse is when I drive my motorcycle. If your fellow Congressman dont know what I mean, than let me take them on the back of my motorcycle behind one of those trucks hauling the sand and gravel. I think they would change their minds after being SANDBLASTED or pelted by ROCKS at sixty-five miles per hour. If you need more help with this legislation then PLEASE talk to the AMERICAN MOTORCYCLE ASSOCIATION. I am sure if you explain to them what you are trying to do they will give you their full support.

In reference to NAFTA..

I DO NOT SUPPORT NAFTA for reasons outlined in your newsletter. We need manufacturing jobs to stay in the United States. We need to build America with American made parts, assembled in the United States, not United States components assembled in MEXICO. The laws set forth by government were made to protect people and their land. The corporations are not taking responsibilities for their actions by moving their industry outside the United States to a country with lower standards and safety regulations. What ever happen to the American pride, we can make better. We can build it from a dream. That seems to be out the door. Now, its we can make more money by building it in other countries with their cheap labor and still sell it for the same price in America. So what about the American workforce, if they dont like it, just fire them and we find someone else to do the job, there are plenty of people out there willing to take this job and for cheaper wages. Thats seems to the attitudes of todays businessmen. Yes Mr. Lipinski, you are correct when you stated , "Its Bad for The American Dream".

Mr. Lipinski, I would love to see the real numbers on the UNEMPLOYED, not the ones the government counts that are receiving unemployment benefits. Publish those numbers along with the unemployed receiving benefits. My guess at the unemployment numbers are between 12 to 15 per cent instead of the 8 per cent we keep hearing about.

The Issues of Health Care Reforms.

We need to take a serious look at health care costs. This is an area that has some serious abuses. From unnecessary testing to overprescribing of medications by the drug companys. We need to do something about the cost. but we need to do it one step at a time. Again, good manufacturing jobs would help this problem. This all I am going to say on this subject until I see more of President Clinton's plans.

The Issue of Interest Rates.

What ever happen to regulating the Credit Cards Interest Rates. My bank is currently giving me 2.51 per cent on my money while the credit cards are charging 12 per cent and higher. WHATS WRONG WITH THIS PICTURE?

I would like to thank-you Mr Lipinski. for taking your time to read my opinions.

Barry M. Suslowicz 11-2-93

Barry M. Suslowicz

11-2-93

Dear Congressman Lipinski

We do support your Proposed Bill to force "Topless Trucks" to be covered when carrying a load.

We have seen rock, gravel, garbage and etc, fly from trucks not covered.

We have proof, Our vehicle has a chipped windshield.

Sincerely & Respectfully

Donald & Laura S. Pierce
8032 S. Natoma ave.
Burbank, Il. 60459-1745

September 6, 1993

The Honorable William Lipinski
House of Representatives
Washington, DC 20515

Dear Mr. Lipinski:

Enclosed is a copy of a letter sent to Ashley Trucking Company after our Windshield Experience.

It really annoyed me when the insurance company said "You might as well pay the $100.00 deductible, you'll never collect from them."

The trucking company told me the same thing and then refused to take my calls after giving me a song and dance about Independent Drivers and having their own insurance, etc.

I called Direct Line at WJJD, but as soon as they knew what he wanted, they refused to take his calls also. "Stan" was always out to lunch or in a meeting.

I decided to go to Small Claims Court, but we had to get the windshield fixed in the meantime, and since it would cost $93.00 to get back $100.00, we decided it was a lost cause.

I'm glad to see someone is going after these irresponsible people. Keep up the good work.

Very truly yours,

Mr. & Mrs Roy Bemis
4516 W. 79th Place
Chicago, Il. 60652

cc: Ashley Trucking Co.
4701 Cumberland
Norridge, Il. 60656

3104 Maple Ave
Berwyn Il 604
Nov 5, 1993

Dear Congressman Lipinski,

Thank you for your informative news letter. I enjoy reading them

Yes our cars have suffered damage from uncovered trucks, but I'm concerned more with the amount of gravel or debris that drops out of the bottom or between cracks in loose fitting doors or tail gates. How is that to be stopped?

A Concerned Driver,

M. Jane Heydek

Dear Congressman Lipinski —

I encourage you in your efforts to pass legislation demanding that trucks be covered & experience the effect of uncovered trucks mostly on I 55.

The fines must be substantial enough to make it fiscally worth the truckers' time to cover their cargo. Otherwise, enforcement will gain a few dollars for the State but the roads will be no more safe for the motorists than they are now.

Thank you.

Loverle Siers

Loverle Siers
7030 35th ST Berwyn 60403

Ambrose Siers

AMBROSE SIERS
7030 W. 35th
BERWYN, IL 60402

November 8, 1993

Dear Mr. Lipinski - Congressman

In your Bulletin Fall 1993 you asked that we write if we want the bill to stop Topless Trucks on the highways of our nation from operating without covering their debris well this is why Im writing to you. Please try to get a bill passed into law that trucks hauling debri must cover their loads

Thank you.

Mrs Evan Sadowsky
6041 W. 64th Pl
Chicago
Ill 60638

NOVEMBER 17, 1993

DEAR REPRESENTATIVE LIPINSKI,

I WANTED TO RESPOND TO THE TOPLESS TRUCK LEGISLATION. I SUPPORT YOUR EFFORTS WHOLE HEARTEDLY AND SO DOES ANYONE WHO HAS RECEIVED A CRACKED WINDOW OR PITTED PAINT JOB FROM A CARE-LESS TRUCK OPERATOR, SUCH AS MYSELF. CARRY-ON AND CRACK DOWN ON THIS PRACTICE AND FIGHT THEIR LOBBYISTS.

I ALSO WANTED YOU TO KNOW I OPPOSE THE USE OF MONSTER TRUCKS ON OUR CITY STREETS. PLEASE OPPOSE THE USE OF THESE OVERWEIGHT TRUCKS ON OUR URBAN HIGHWAYS FOR SAFETY AND MAINTENANCE REASONS IF FOR NOTHING ELSE.

SINCERELY,

Paul Tacoby

P.S. I ALSO OPPOSE NAFTA.

I'm glad you're going to propose legislation on this matter which is long over due. Keep up the good work.

Michael V. Dudak

Mr. & Mrs. MICHAEL V. DUDAK
5851 S. NEWCASTLE
CHICAGO, IL. 60638
23RD WARD
3RD CONGRESSIONAL DISTRICT

CONGRESSMAN LIPINSKI — 11/5/93

In the Past Year, Ive had two windshields cracked on my vehicles by uncovered trucks and by trucks with rocks thrown up by their rear wheels with no mud flaps. Even though the trucking company was notified, they say they are not liable, and I was stuck paying the deductable. I'm sure your familiar with first avenue as it crosses the Stevenson expressway and the semi's and dump trucks that use it. They speed down first avenue with rocks flying everywhere and with no regard to the traffic

11-2-93

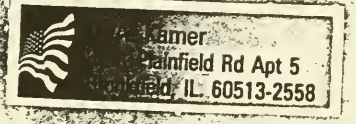
To:
William O Lipinski
Congressman

Re: Constituent Bulletin
Fall 1993 - TRUCKS

Mr Lipinski -

I believe trucks should be covered. I had the misfortune of driving behind uncovered trucks and debris hit my car causing damage to the paint.

Sincerely,
P. E. Kamar



1.5g or 3g q6h

Unasyn® IM IV

(ampicillin sodium/sulbactam sodium)

FIT FOR THESE TIMES

11/4/93

Dear Congressman,

Your "Topless Trucks" Bill is a great idea which is long overdue! My car has been hit numerous times by gravel stones which bounce out of trucks which are sometimes over "empty". I hope your bill passes & puts an end to these road hazards.

Matt Burke

Pfizer Roerig

Please see prescribing information on last pages.

RUC051N92 ©1992, Pfizer Inc. Printed in U.S.A. January 1992

Nov 11 1993

DEAR CONGRESSMAN LIPINSKI

I AM RETIRED SO I don't DRIVE THE EXPRESWAY SYSTEM AS MUCH AS WHEN I WORK, but I STILL USE THE STEVENSON EXPRESSWAY About TWICE A WEEK ON THE AVERAGE.

IN THE LAST TWO YEARS I WAS behind A dump TRUCK (NOT COVERED) AND SOME debris hit MY windshield. OF COURSE IT STARTLED ME And could HAVE CAUSED AN ACCIDENT, THE windshield had To be Replaced. About 1 YEAR latter AGAIN I happened To be behind AN (UNCOVERED) TRUCK And SOME THING hit My GRill, which had To be REPLACED AT My INCONVENIENCE And EXPENSE. I APPRECIATE you TRYING To GET LEGISLATION THROUGH CONGESS To have All LOADS COVERED

TWO OTHER PROBLEMS I SEE ON THE STEVEN SON ARE TOO MANY SEMI TRAILORS USE THE EXTREME LEFT LANE WHEN THERE ARE PLENTY OF SIGNS SAYING TRUCKS USE TWO RIGHT LANES. Also PEICES OF RETREADED TIRES litter THE EXP RESSWAY

SINCERELY

Edward J Duck

11/5/93

Congressman Lipinski

I just finished reading your fall 93 Const. Bulletin. I enjoy reading this, and appreciate what you are doing. While I do not always agree with you (no two people always agree) I do believe you are doing your best for the citizens of the 3rd Congressional Dist.

I am replying to your article about Topless Trucks. I worked with a garbage firm that included roll-off (or topless) trucks. I was ridiculed for covering my loads by both the other drivers, and by management. If something came off the load, so be it. They felt it wasn't worth the time nor the effort to cover their loads.

But what I feel is even a greate danger, is what occurs with gravel trucks. I have never followed a gravel truck that wasn't ~~losing~~ loosing some stones. These stones can bounce as high

as ten feet, creating a danger to everyone on the road. Windshields, paint finishes, etc are all at risk. And what if one hits a motorcycle driver?

In addition to the stones danger is the driving habits of these gravel trucks. They are among the worst on the road.

While I have your ear, the last point I would like to talk about is that concerning stop lights. There are so many of them, but the worst part is the timing of them. There is no rhyme or reason at all to many, if not most, stop lights show assist, not hinder the flow of traffic. Shopping mall entrances, T intersections little used side streets all seem to have preference over heavily used roads. All you have is stop and go, stop and go, or you have everyone speeding to get through. And the police know this by the way they sit and wait.

Thank You

John T Sacks

JOHN SACKS
APT 10
10430 RIDGLAND AVE.
CHICAGO RIDGE, IL 60415-1549

Nov. 5, 1993

Dear Congressman,

I throughly agree with you about the tireless trucks. My co-workers and I are fed up with them. Most of us travel 294 + 290 to go to Elmhurst where our office is located. We have been there five years and in that time four of us had our windshields replaced, one of us had two.

Why should our insurance companies have to pay for the gravel companies refusal to cover their trucks.

If you have ever driven behind one of these trucks you will notice you can hardly see their license No. + if you could what good would it do. I have never heard of any one ever getting paid for damages from the gravel companies.

We would appreciate any thing you can do to get this law passed.

Thank you

Miss Joan Carlson
5848 W. 64th Place
Chicago, Il 60638

Dear Congressman Lipinski,

~~Thank you for supporting legislation requiring English be our official language.~~

~~I~~ I'd like you to know my family & I are in support of legislation requiring trucks to have covers so debris doesn't fall onto cars & highways.

We have had to replace 2 windshields & several headlights because of large stones, rocks & various objects of a garbage nature bouncing out of open dump trucks & large truck haulers. We stand in support of that legislation.

~~Please continue the fight against NAFTA.~~

Sincerely,
Carolyn Laub
1915 S 58th Ave
Cicero IL 60650

5304 S. Major Ave.
Chicago IL 60638
November 4, 993

Dear Congressman Lipinski.

I want legislation forcing trucks to cover their loads. I have had a cracked windshield in the past, and even now, rocks, paper and other debris hit my car as these uncovered trucks speed 65 to 70 miles an hour on the Stevenson. Please get that legislation passed. Thanks.

Mary Ann Gleeson

C10

Friday, November 5, 1993

Congressman Bill Lipinski
1501 Longworth Building
Washington, D.C. 20515

Dear Congressman Lipinski:

Received your mailing "Representing Our Community" and enjoyed reading about the activities in Washington concerning us, the law makers and our country.

In regards to your legislation concerning "Topless Trucks", you & have experienced a broken windshield back in 1984 when a truck with a load of stone passed me going in the opposite direction on a highway and losing stones as he went over a bump in the road. Because of the speed of the truck and the congested road, I was unable to even get the truckers license number.

~~My belief is that I am against the Clinton Health Plan. Since only 5% of the people of this nation is without health insurance, why make the rest of us change when we are happy with what we have. The cost would be a lot less to take~~

~~care of those who do not have coverage, rather the~~
~~efforts will now be to cover everyone, who we are~~
~~already covered. We even have a program this drug~~
~~program which is very economical and know we will~~
~~be saving a lot more on the Clinton Plan.~~

~~Let's have some more regarding~~
~~the data you will be appearing in our area.~~

Sincerely yours

Lloyd E. Anderson
4113 S. Home Ave
Stickney, Ill 60402

11/5/93 Re: Topless Trucks

Congressman Bill Lipinski

I think you are right about the need to cover trucks. The debris is very dangerous.

Everyone on the road should be concerned for the safety of everyone who shares the road.

The decision to cover the load should not be left to the discretion of the driver. He or she may be pressed for time and fear that the boss would not understand if time was used to cover the load.

If covering the load is the law, then the boss is required to provide the cover and the time to put the cover over the load. The driver can be careful about covering the load without fear of what the boss will say.

Safety is very important to us all.

Sincerly

Donald L. Dawn 708 422 3349
4341 W. 99 Street
Oak Lawn, Ill. 60453

(1)

D. A. BOLGER

Nov. 8, 1993

Dear Mr. Lipinski

I've been waiting for an opportunity to write to some one, anyone out there who will listen.

Way back in 1967 on I-55 west of La Grange Rd. metal strips + debris from an over loaded truck that had fallen on the road tore up the tires on our van + camping Trailer, as we were heading out on our vacation / We had 6 flats to change on that trip.

Then in 1973 July on 8900 So. on Rte 83, I ran over a rock that had been dropped from a dump truck in the middle of the road, + tore out the bottom of the car. (I thought I could safely pass over it.)

(2.)

D. A. BOLGER

Anyway finding out whose jurisdiction that part of the highway * Rte 83 belonged to, was like "screaming in the wind".
I wrote letters to Ralph Nader, The Highway Dept. etc & got not one answer, or response from anyone about covering truck loads (Too big a job maybe?)
Then in 1981, again on Rte 83 heading east off of La Grange Ave. (a truck hauling rocks and debris heading West hit the bump, from concrete to tar surface and a rock bounced off the truck hit the back window of my car & shattered the glass all over my daughter & her two little girls 3+5 yrs old. in the back seat. Thank God they didn't get cut.
My daughter said "Ma get that guy";

so I quickly turned my car around and drove after the truck. — They (the drivers) just don't care. — I did get him to drive to a State police station at 135th So. on Cicero to make out a report. — Again open truck, no cover, overload. — Then the policeman there at the station wanted to know if I was sure about what happened. — How to drive a driver nuts —

Any way Sir Bill, Good Luck in getting a law passed to have loaded trucks covered. — So it takes a while to cover a load. It takes a lot of time to make out a police report, insurance forms & it takes time to heal if injured.

A concerned Driver
sincerely
Dorothy A. Bolger

James and Dorothy Bolger
15628 So. Larkspur Lane
Orland Park, IL 60462

Nov. 8, 1993

Hon. Wm. Lipinski
U.S. House of Representatives
Washington, D.C. 20515

Subject: Tarp less Trucks

I have your Newsletter for Fall, 1993 wherein you raised this issue.

I completely agree. We need a law with real teeth in it to require those who haul materials in open trucks to cover them up! I think that the law should impose a penalty upon the drivers as well as their employer.

I recommend that it be done by imposing an "excise" tax upon a privilege of hauling unsecured materials for revenue. Both the employer and driver should be required to file a tax return for each load so hauled! Under the provisions of 26 USC subtitle B. If this is not done the driver & his dispatcher/employer could be sent to jail for 26 USC 7201 & 7203...

Congressman Bill Lipinski
1501 Longworth Building
Washington, D.C. 20515

Thursday, 11/3/93

Attention: Topless Trucks

Dear Congressman Lipinski:

Your short article in the Fall 1993 Constituent Bulletin concerning topless trucka hits home with a failure ring. A few months ago, our son Will, (a college student at ISU) was driving locally to pick-up a few last minute items before returning to school. Something suddenly flew off a large construction truck in multiple lanes of heavy traffic. There waa no place for Will to go, left or right, and extensive damage was done to my car as well as two others. The driver of the construction truck never stopped and the entire episode resulted in a two week repair job for my car and a hefty increase in my son's insurance premium for something that was not his fault. How irresponsible!!

By a stroke of luck, my son was not hurt, however, I don't know the feat of the other drivers. It's easy to imagine how quickly someone's life could be snuffed out due to the complete lack of regard for other peoples safety. I don't think it would place a great imposition on the trucking industry to implement corrective action that would safe guard against occurrences such as this. In recent years, I have seen many similar occurrences where items are blown free from trucks and I was glad to read that you will be presenting legislation that would force trucks to cover their loads. I say, it's about time!

Regards,

William Rogers
10040 So. 52nd Ave.
Oak Lawn, Il 60453

Dear Congressman.

I am writing you in regards to the trucks on the highway with no cover to protect the dirt, rock, and debree that fly in the air and hit my car. I am sick and tired of having my car scratched, because a company or driver has been inconsiderate of other peoples property. Not to mention how dangerous it is to try and dodge whatever is coming at me, and speeding up to get in front ot them. I feel this has been going on long enough and something should be done about it. I hope you can fight to make driving easier and safer on the highways.

Thank you

Mary Gail Subsits

P.S. SAY NO TO NAFTA!!!!

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SOUTHWEST NEWS-HERALD

Your Correspondent In
West Lawn
Nance Dulaj
7235 S. Avers 585-1627

November 5, 1993

Hon. William O. Lipinski
Congress of the United States
House of Representatives
1501 Longworth Building
Washington, D.C. 20515

Attention: Topless Trucks, Train Derailments

Dear Sir:

I am enclosing a newspaper photo wherein my son, Glen, had suffered on the expressway.

He lost his treasured little van, with all of the work he put into it, plus was hospitalized and went through a great deal of therapy...while the "hit-and-run" truck driver escaped without injury.

I've also had other ordeals which you might wish to hear about.

However, currentl[redacted] wonderful[redacted] who were [redacted] both having a 4.0/4.0 GPA [redacted] talk about [redacted] - wel[redacted] the white young males in Chicago's s[redacted]west si[redacted]

Sincerely,

Nance L. Dulaj

Attachments.

American Automobile Assoc.

Washington Office

1440 New York Avenue, N.W.
Suite 200
Washington, D.C. 20005
202/942-2050

FAX 202/783-4788

Darryl L. Wyland
Senior Vice President
Public & Government Relations

June 6, 1994

The Honorable William O. Lipinski
1501 Longworth House Office Building
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Lipinski:

The American Automobile Association, serving more than 35 million members, heartily endorses H.R. 2967, a bill that establishes national standards for the covering and securing of loads on commercial motor vehicles and provides incentives for states to adopt covered truck legislation.

Too many motorists still face cracked or broken windshields and damaged automobiles from flying debris. Too many roadsides are still littered from unnecessary truck spillage.

AAA supports state legislation which would require vehicles to cover or otherwise secure loads to prevent blowing or spillage onto the highway and becoming a hazard to other users of the highway or community. Your bill focuses attention on this important issue while offering a mechanism for persuading states to attack the problem.

We commend you for your efforts in this area, and offer our help in getting this important legislation passed.

Sincerely,

Darryl L. Wyland

Darryl L. Wyland

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